Supreme Court, U.S.
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No. OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1998

MARK B. RASMUSSON, et. al.,

Petitioners,

v.

LAWRENCE E. FROST, et. al.,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

APPENDIX B
Petitioners' Third Amended Original Petition

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APPENDIX B

PETITIONER'S THIRD AMENDED ORIGINAL PETITION

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

MARK B. RASMUSSON, RASMARK JET CHARTER, INC., DEBORAH L. RASMUSSON, ANDREW A. GANTKESSY,	§ § § §	
PLAINTIFFS,	§	CIVIL ACTION:
	§	EP-95-CA-475-F
VS.	§	JURY DEMAND
LAWRENCE E. FROST, GEORGE J. WEISE, CAROL B. HALLETT, JOHN E. HENSLEY, DONALD L. REAY, MICHAEL T. LAPPE, MICHAEL J. WILCZEWSKI, FRED J. SCHROEDER, WALTER J. KING, LARRY BROWN, ERIC MILLS STEVEN ERIC PERKINS, ELI P. CHAVEZ RAPHAEL AGUIRRE TOM LENOX, FONDA R. HIVICK, ROBERT L. MARTINEZ, JOE ACOSTA,	§ § § § § § § § § § § § § § § § § § § §	
ARE SUED IN THEIR INDIVIDUAL CAPACITY,	§ §	
UNITED STATES CUSTOM SERVICE, (sued under THE	§ §	

PRIVACY ACT only) §

CITY OF EL PASO, §
EL PASO POLICE DEPARTMENT, §
CHIEF OF POLICE RUSS LEACH IN §
HIS OFFICIAL CAPACITY, §
GEORGE L. SALAS, IN HIS §
INDIVIDUAL AND OFFICIAL §
CAPACITY AS AN EL PASO POLICE §
DEPARTMENT OFFICER, §
JAMES HOLLAND, IN HIS §
INDIVIDUAL AND OFFICIAL §
CAPACITY AS AN EL PASO POLICE §
DEPARTMENT OFFICER, §
§
COUNTY OF EL PASO, §
EL PASO COUNTY SHERIFF'S §
DEPARTMENT, §
EL PASO COUNTY SHERIFF LEO §
SAMANIEGO IN HIS OFFICIAL §
CAPACITY, §
EL PASO COUNTY SHERIFF'S §
DEPUTY, DETECTIVE NEIL BAKER §
IN HIS INDIVIDUAL AND IN HIS §
OFFICIAL CAPACITY, §
EL PASO COUNTY SHERIFF'S §
DEPUTY, DETECTIVE JERRY KEITH §
IN HIS INDIVIDUAL AND IN HIS §
OFFICIAL CAPACITY, §
§
GAIL BEACH, §
AERO FREIGHT, INC., §
CHRIS HINES §
§
DEFENDANTS. §
§

PLAINTIFFS' THIRD AMENDED ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MARK B. RASMUSSON, individually, Rasmark Jet Charter, Inc., Deborah L. Rasmusson, individually, and Andrew A. Gantkessy, individually (hereafter referred to as "Plaintiffs") by and through their undersigned attorney, Sandra Jackson Sheppard, of the firm of Sheppard and Associates and complaining of (agents or employees of the United States Customs Service ("USCS")), Lawrence E. Frost, George J. Weise, Carol B. Hallett, John E. Hensley, Donald L. Reay, Michael T. Lappe, Michael J. Wilczewski, Fred J. Schroeder, Walter J. King, Larry Brown, and Eric Mills; (agents of the Drug Enforcement Administration ("DEA")) Steven E. Perkins, Eli P. Chavez, Raphael Aguirre, and Tom Lenox; (agents of the Internal Revenue Service ("IRS")) Fonda Hivick, and Robert L. Martinez; (agent of the Federal Bureau of Investigation ("FBI")) Joe Acosta; United States Customs Service. All the Defendants specified in this paragraph are collectively referred to as ("Federal Defendants"). City of El Paso, El Paso Police Department ("EPPD"), Chief of Police Russ Leach, EPPD Officer George L. Salas, EPPD Officer James Holland, County of El Paso, El Paso County Sheriff's Department ("EPSD"); El Paso County Sheriff Leo Samaniego, EPSD Detective Neil Baker, and EPSD Detective Jerry Keith. All the Defendants specified in this paragraph are collectively referred to as ("State Defendants"). Defendant Gail Beach ("Beach"),a private person who acted in concert with both the federal and state Defendants, at all times relevant to this lawsuit, is a United States citizen and resident of the State of Texas, City of El Paso. Gail Beach is responsible for damages suffered by Plaintiffs. Aero Freight, Inc., is a corporation organized under the laws of the State of Texas with principal office in the Western District of Texas. Aero Freight, Inc., is responsible for damages suffered by Plaintiffs as specified herein. Defendant Christopher (Chris) Hines ("Hines"),a private person who acted in concert with both the federal and state Defendants, at all times relevant to this lawsuit, is a United States citizen and resident of the State of Texas, City of El Paso. Chris Hines is responsible for damages suffered by Plaintiffs

JURISDICTION

(1) This action is brought by each Plaintiff individually against each respective individual federal Defendant, acting under color of his/her federal authority, for violating Plaintiffs rights protected by First, Fourth, Fifth Amendments to the Constitution of the United States and other federal law.

(2) This action is brought by each Plaintiff individually against each respective individual El Paso Police Department officer named herein and each respective individual County of El Paso deputy sheriff named herein who, acting under the color of the laws, statutes, ordinances, regulations, policies, customs, or usages of the State of Texas, County of El Paso, and the City of El Paso, violated Plaintiffs rights, privilege and immunities secured to Plaintiffs by the First, Fourth, and Fourteenth Amendments to the Constitution of the United States and other federal law.

(3) Plaintiff's cause of action against the federal defendants arise directly under the Constitution of the United States. Plaintiffs invoke this Court's federal question jurisdiction pursuant to 28 U.S.C. § 1331 and bring this lawsuit against federal defendants in their individual capacity and private defendants acting under color of law under the Bivens Doctrine.

(4) Plaintiff's cause of action against the United States Customs Service ("USCS") under the Privacy Act, 5 U.S.C. § 552a is brought pursuant to 5 U. S. C. §§ 552a(g)(1)(C) and 5 U. S. C. §§ 552a(g)(1)(D) which specifically authorize a private right of action to bring suit against the federal agency for violations of the Privacy Act.

(5) Plaintiff's cause of action against the officers of the El Paso Police Department and private defendants acting under color of law arise under 42 U.S.C. §§ 1983 and 1988.

(6) Plaintiff's cause of action against the officers of the El

Paso County Sheriff's Department and private defendants acting under color of law arise under 42 U.S.C. §§ 1983 and 1988.

(7) Laws of the State of Texas, Texas Tort Claim Act, § 101.001 et seq. and Texas Constitution art. 5 § 8 triggers state law claims on civil conspiracy, gross negligence, tortious interference with business relationship, tortious interference with prospective contract, tortious interference with contract relationship, and tortious interference with employment contract.

(8) Plaintiffs invoke this Court's diversity of citizenship jurisdiction under 28 U.S.C. § 1332 as to those defendants who do not reside within the Western District of Texas.

(9) Plaintiffs invoke this Court's jurisdiction to adjudicate Plaintiffs' causes of action to redress and recover damages for deprivation of Plaintiffs' constitutionally protected civil rights and privileges under 28 U.S.C. § 1343(a)(1-4).

(10) Plaintiffs assert their state law claims under federal court's pendent jurisdiction as expanded by 28 U.S.C. § 1367. Plaintiffs bring both their claims for redress under the laws of the State of Texas and their claims for redress under federal law, and the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution and other federal law.

VENUE

(11) This Court has venue pursuant to 28 U.S.C. § 1391 and is proper in this district because it is where the majority of the parties reside and where the majority of the illegal and unconstitutional acts by the Defendants took place.

PLAINTIFFS

(12) During all times relevant to this lawsuit, Plaintiffs Mark B. Rasmusson, Deborah L. Rasmusson, and Andrew A. Gantkessy are

each respectively a citizen of the United States, and residents of El Paso County, Texas which is in the Western District of Texas.

(13) During all times relevant to this lawsuit, Plaintiff RASMARK JET CHARTER, INC. ("RASMARK") is a corporation organized and chartered under the laws of the State of Texas with principal office and registered agent located at 6915 Boeing Dr., El Paso, Texas which is within the Western District of Texas. At all times relevant to this lawsuit, Rasmark was owned by Mark B. Rasmusson and Deborah L. Rasmusson.

(14) Plaintiff, Mark B. Rasmusson, is the president of RASMARK. Andrew A. Gantkessy ("GANTKESSY") is a former traffic manager for the Ford Motor Company, Favesa Warehouse.

(15) Beginning in or about 1987 and continuing to the present time agents of the U.S. Customs Service, Drug Enforcement Administration, Federal Bureau of Investigation, Internal Revenue Service, acting under color of their respective federal authority, officers of the El Paso Police Department, deputies of the El Paso County Sheriff's Department, acting under color of the laws, statutes, ordinances, regulations, policies, customs, and usages of the State of Texas, County of El Paso, and City of El Paso (collectively referred to as "AGENTS") and private persons, acting under both color of federal and state law, jointly and severally participated in violation of clearly established rights of Plaintiffs protected by the First, Fourth, Fifth, and Fourteenth Amendments of the United States Constitution, and other federal law as protected by the provisions of the Privacy Act, 5 U.S.C. § 552a.

DEFENDANTS

(16) During all times relevant to this lawsuit, Defendant USCS is a lawful agency of the federal government and Defendants, Lawrence E. Frost ("FROST"), Donald L. Reay ("REAY"), Michael T. Lappe ("LAPPE"), Michael J. Wilczewski ("WILCZEWSKI"), Fred J. Schroeder ("SCHROEDER"), Walter J. King ("KING"), Larry Brown

("BROWN") and Eric Mills ("MILLS"), Steven E. Perkins ("PERKINS"), Tom Lenox ("LENOX"), Fonda R. Hivick ("HIVICK"), Robert L. Martinez ("MARTINEZ"), Joe Acosta ("ACOSTA"), and are respectively employed by the federal government as law enforcement agents and they are citizens of the United States and residents of El Paso County, Texas. Each respective Defendant named in this paragraph is individually and jointly responsible for damages to Plaintiffs. Each person individually named in this paragraph is employed by the an agency of the federal government and is sued in his or her individual capacity respectively.

(17) During all times relevant to this law suit, Defendants George J. Weise ("Weise" USCS Commissioner from January, 1993 through the present time), Carol B. Hallett ("HALLETT" USCS Commissioner between November, 1989, and January, 1993), John E. Hensley ("Hensley" Assistant Commissioner for USCS Office of Enforcement between February, 1990 and April, 1994, at USCS Headquarters, Washington D.C.), all of whom are respectively employed by the federal government as law enforcement executives or managers of the U. S. Customs Service and who are citizens of the United States. Carol B. Hallett, George J. Weise, and John E. Hensley are individually and jointly responsible for damages to Plaintiffs. Each Defendant named in this paragraph is sued in his or her individual capacity respectively.

(18) Defendant El Paso Police Department is a department of government controlled by the City of El Paso which is a municipal corporation duly incorporated under the laws of the State of Texas. Chief of the El Paso Police Department, Russ Leach ("LEACH"), is sued in his official capacity only. At all times relevant to this lawsuit, Chief Leach is a resident of the City of El Paso. At all times relevant to this lawsuit, Chief Leach is the highest ranking law enforcement officer employed by the City of El Paso. Chief Leach is responsible for damages to Plaintiffs.

(19) At all times relevant to this lawsuit, Defendants George L. Salas ("SALAS") and James Holland ("HOLLAND") are United

States citizens and are residents of El Paso County, Texas. George Salas and James Holland are employed in the El Paso Police Department. Salas and Holland, are sued in their respective official and individual capacities. Salas and Holland are individually and jointly responsible for damages suffered by Plaintiffs.

(20) Defendant County of El Paso is a unit of government organized under the laws of the State of Texas and the Texas Constitution. The County of El Paso is responsible for damages suffered by Plaintiffs.

(21) Defendant El Paso County Sheriff's Department is a department of government controlled by the County of El Paso. El Paso County Sheriff, Leo Samaniego ("SAMANIEGO") is the highest ranking law enforcement officer employed by the County of El Paso. Sheriff Samaniego, is sued in his official capacity only. At all times relevant to this lawsuit, Sheriff Leo Samaniego is a resident of the County of El Paso. Sheriff Leo Samaniego is responsible for damages to Plaintiffs.

(22) Defendants Neil Baker ("BAKER") and Jerry Keith ("KEITH") are employed by the County of El Paso Sheriff's Department. At all times pertinent to this law suit, Neil Baker and Jerry Keith were citizens of the Unites States and are residents of the County of El Paso. Neil Baker and Jerry Keith are sued in both their official and individual capacities respectively. Neil Baker and Jerry Keith are individually and jointly responsible for damages sustained by Plaintiffs.

(23) Defendants Gail Beach ("BEACH"), Aero Freight, Inc., ("AERO FREIGHT") and Christopher Hines ("HINES") are private persons who acted in concert with both the Federal and State Defendants. At all times pertinent to this lawsuit, Gail Beach, Aero Freight, Inc., and Christopher Hines were citizens of the United States and are residence of the County of El Paso.

PLAINTIFFS ALLEGE AND COMPLAIN AS FOLLOWS:

BACKGROUND: MARK RASMUSSON'S INHERITANCE

(24) Mark Rasmusson's father, Mr. Marlin B. Rasmusson's died on May 1, 1979 and left an estate valued at several million dollars which was to be divided 40% to Mark Rasmusson, 40% to Robert Rasmusson, and 20% Janet Wherry. The moneys were to be paid 1/3 in 5 years, another 1/3 in 10 years and the balance 1/3 in 15 years from May 1, 1979. However, in the meantime, Robert Rasmusson died in an accident on July 15, 1981, and the estate was now divided between Mark B. Rasmusson 60% and Janet Wherry received 40%. Between July 15, 1981 and November 18, 1985, Mark B. Rasmusson received $1,165,853.23 and Janet Wherry received $205,000.00 and the balance in the estate to be distributed was $657,104.70.

(25) Mark Rasmusson's mother, Vera Rasmusson, died on August 29, 1980, and her entire estate was willed to Mark and Robert Rasmusson divided equally. In the event of the death of either son, the remaining survivor would inherit the entire estate. Janet Rasmusson's trust was to pay Mark Rasmusson 1/3 of the estate on Mark Rasmusson's 25th birthday, 1/3 on his 30th birthday and the balance 1/3 on his 35 birthday. Mark B. Rasmusson inherited both his mother's estate and his brother's estate which was approximately valued at $1,052,230.60. The probate records reflect that the Rasmussons made their substantial wealth through their own hard work and investment in their communities, such as State of California, Health Science Bonds, San Diego Unified School Bonds, California Community College Bonds, Los Angeles Dept. Of Water & Power Bonds, etc., and stocks and bonds of a host of businesses, as well as their own personal businesses. All this information is easily accessible in the public probate records in the County of Sacramento, California.

(26) In 1982, Mark Rasmusson purchased Lear Jet model 24 tail number 234MR and started his air charter business as a sole proprietorship in Stateline, Nevada. The business was successful and he incorporated the business as Rasmark Jet Charter, Incorporated in Reno, NV in 1984. By 1984 with his inheritance and business earnings, Mr.

Rasmusson purchased two additional Lear Jet aircraft and leased an additional one. Rasmark Jet Charter, Incorporated provided jet charter for passengers, freight, and ambulance services. RASMARK was doing well in the freight business and sought to expand it's freight business. The FAA issued Rasmark Jet Charter Inc Air Carrier Certificate number J0GA280F on February 1, 1987 RASMARK moved to El Paso in 1987. Rasmark Jet Charter, Inc was incorporated in Texas on April 28, 1989, Texas Certificate of Incorporation number 1112770, and RASMARK sought to continue developing its air freight service to the automotive industry. All the information pertaining to the RASMARK aircraft is easily accessible in the public records of FAA where title searches and history of the aircraft is maintained.

(27) At the time RASMARK moved from Reno, Nevada to El Paso in 1987, two of its Lear Jets were free and clear, one was financed, and the other was leased. During the period 1984-1987 Gail Beech at Arrow Freight acted as a freight broker for Rasmark Jet Charter, Inc. In 1987 Ms. Beech placed Rasmusson under exclusive contract which time was a period in which the air freight business was experiencing boom. Ms. Beech decided to purchase a Lear 25 and became a direct competitor to RASMARK. It was this decision by Ms. Beech that led to the termination of the exclusive contract between Aero Freight and RASMARK.

FACTS, INCIDENTS AND OVERT ACTS AT ISSUE.

Background - Task Forces

(28) Congress, prior to the events, acts, and conduct of the Defendants in this lawsuit, enacted legislation that permit the forming and funding of Federal-State Narcotics Task forces. In 1991 Texas state and local narcotics enforcement agencies became eligible for special funding under the High Intensity Drug Trafficking Area program (HIDTA). This program, under the Drug Czar and the Office of National Drug Control Policy, (ONDCP) made special funding available to federal, state, and local narcotics enforcement agencies located in certain designated counties along the Mexican Border. HIDTA funding was available as long as the agencies followed investigative guidelines

and conducted investigations which addressed HIDTA priorities.

(29) The HIDTA funds flowed from ONDCP to the Texas Governor's Office then through the TNCP Director's office down to the individual HIDTA designated counties. As in the case of the U. S. Department of Justice, through the Bureau of Justice Assistance (BJA) funds, the HIDTA funds were considered federal funds but no matching funds were required on the part of the counties. A major priority of the HIDTA program from 1991 forward was money laundering and all HIDTA funded agencies, federal, state, and local, were pressured to participate in multi-agency money laundering task forces. The El Paso County HIDTA funds were used to create a special investigative unit, under the direction of the Project Director of the El Paso Metro Narcotics Task Force. This new investigative unit, the HIDTA task force, was staffed by officers from the El Paso Sheriff's Department (EPSD) and the El Paso Police Department (EPPD). The mission of the HIDTA Task Force was to conduct in-depth investigations on selective cases developed by the interdiction task force, El Paso Metro. The HIDTA investigators were tasked to identify major smuggling organizations, locate and identify their financial assets, and to disrupt the organizations by seizing assets and coordinating more complicated prosecutions.

(30) Another funding mechanism for task force cases is have a case designated as an Organized Crime Drug Enforcement Task Force (OCDETF), where either the DEA, FBI, USCS, or IRS would act as the lead federal agency, along with members from other federal agencies, Texas Department of Public Safety (DPS), EPPD, and EPSD. The OCDETF designation is approved by a multi-agency OCDETF Committee, and only major money laundering and drug interdiction. cases are suppose to be approved and funded by the OCDETF Committee.

(31) Later, possibly in 1992, USCS assigned investigative agents and support personnel, also funded through the HIDTA program, to work with the EPSD and EPPD HIDTA investigators at an office provided by the EPSD in the same building where the El Paso Metro

Task Force was located.

(32) On or about March of 1992, USCS agents joined forces with the EPSD and EPPD investigators, along with agents from the Federal Bureau of Investigation (FBI), Internal Revenue Service (IRS), and assistance from the Drug Enforcement Administration (DEA), culminating in the USCS Financial Task Force (FTF).

INVESTIGATIONS PRIOR TO 1992

(33) From approximately 1987 to March of 1992, the USCS agents, with the agreement and assistance of federal agents from DEA, FBI, IRS and local police officers from the City of El Paso Police Department (EPPD) and the County of El Paso Sheriff's Department, and private persons, who acted in concert with both the federal and state Defendants, have pursued a common goal of ruining the business of Rasmark Jet Charter, Inc. (RASMARK). Obtaining all of RASMARK's assets is a powerful incentive to both the federal and state Defendants that is built into the forfeiture laws. The goal of both the federal and state Defendants was to steal the assets of RASMARK under the shield of a bogus investigation and a subsequent sham prosecution. The downfall of a major competitor is a powerful incentive to private persons to go beyond just doing their duty as a concerned citizen. The goal of the private Defendants were to aid and abet both the federal and state Defendants by providing them with inflammatory half truths, misinterpretations, misrepresentations, misleading statements, rumors and outright fabrications.

(34) Both the federal and state Defendants intentionally, deliberately, with malice and reckless disregard for the constitutional rights of the Plaintiffs, acting jointly and severally, and in concert with the private Defendants, implemented a plan to shut down RASMARK by carrying out a pattern of harassment, intimidation, coercion and retaliation against the Plaintiffs with the goal of bringing about a successful prosecution for either drug smuggling, money laundering, violations of the Bank Secrecy Act, kickback or payoff schemes, tax evasion, and or all of the aforementioned violations. The plan included

a campaign to disclosure inflammatory allegations, half truths misrepresentations, misinterpretations, misleading statements, rumors, and outright fabrications to the friends, family and business associates of the Plaintiffs and to the customers of RASMARK and the employer of Andrew A. Gantkessy.

(35) For Mark and Deborah Rasmusson (M. RASMUSSON and D. RASMUSSON) their awareness of this governmental nightmare began in or about May 22, 1989, when out of desperation they wrote a letter to Senator Ted Kennedy, who had recently used the charter services of RASMARK, seeking some kind of relief from what they were perceiving as "Nazi Gestapo" tactics being used by the United States Customs Service (USCS) toward them personally and in particular toward their company RASMARK, (see Exhibit 1).

(36) Examples of "Nazi Gestapo" tactics that the Rasmussons and RASMARK were complaining about is clearly exemplified in the following two incidents, October 1988 and July 1990.

(37) On or about October 6, 1988, RASMARK dispatched one of its jets to Brownsville, Texas to pick up cargo for delivery in Youngstown, Ohio. The aircraft was piloted by Jerry Burnett ("BURNETT") and this trip was his first as a captain for RASMARK. Two copilots accompanied BURNETT on this trip. The crew waited in Brownsville for an hour and a half; but no cargo arrived. BURNETT contacted the RASMARK dispatcher who ordered RTB (return to base). BURNETT was in the cockpit starting the engines and the two copilots had just entered the plane and were in the process of closing the air stair door when six or seven men with machine guns, pistols and shotguns surrounded the aircraft and ordered the crew to exit the plane. Later these men were identified as agents of the U. S. Border Patrol.

(38) BURNETT had one engine in the middle of the starting procedure and the turbine was coming up to speed. The copilots were outside the aircraft and in custody. An agent put his head in the aircraft doorway and hollered at BURNETT to "get out of the plane now".

When BURNETT did not immediately get up and exit the aircraft, the agent became hysterical, hollering and making demands and threats.

(39) BURNETT could not exit the aircraft while the engine was in the middle of the start sequence because to do so would pose a most serious fire hazard where unburned fuel would have remained in the engine and it was essential that BURNETT monitor the engine during the time the turbines were spooling down. This process took a minute or two to complete before BURNETT could safely exit the aircraft.

(40) Upon exiting, a fat agent with a shotgun immediately poked the gun into BURNETT's belly. The agent was shaking badly and BURNETT feared the agent would accidentally pull the trigger. The agent in charge told BURNETT that they were Border Patrol agents and that they had customs authority under a recent federal act in 1988.

(41) The agent in charge requested identification. One copilot reached into his back pocket for his ID and as he did several agents instantly moved to point their guns on the copilot. This attack scared the copilot so much that he literally let loose and messed in his pants. BURNETT asked the agent in charge if BURNETT could obtain the copilot's ID. However, the fat agent kept the shaking shotgun poked into BURNETT's belly as BURNETT got the copilot's ID.

(42) BURNETT told the agent in charge to search the aircraft and that he would open any panel that the agent wished to search. The agents searched the plane. The agents were in constant radio communication with their headquarters. The agents finally lowered their weapons as they turned to leave. It took an additional 30 minutes for the copilot to calm down enough to fly. On flight plan, BURNETT returned the jet to El Paso base

(43) The BP agents were acting on orders from U. S. Customs. The agents did not have a shred of probable cause on which to justify the unprovoked raid on RASMARK's jet aircraft.

(44) On or about July, 1990 or mid-summer, the RASMARK dispatcher directed BURNETT to fly to Del Rio to pick up passengers. Upon BURNETT's return to El Paso, BURNETT was stopped by three U. S. Customs vehicles. BURNETT was ordered to clear Customs by the agents in the cars. The agent told BURNETT that he had crossed into Mexican air space and as such as required to clear customs. BURNETT adamantly denied this allegation.

(45) BURNETT told the agent that he had been on a flight plan and was under constant direction from Air Traffic Control. As the agent became insistent and adamant about making BURNETT clear customs, two of the customs cars left and the agent was the only one left talking to BURNETT. Finally, the agent stated that he would let BURNETT get by this time. However, BURNETT was not satisfied and requested the copilot call ATC (air traffic control) and order a copy of the radio and radar tapes. BURNETT told the agent to arrest him so that the matter could be taken to court. The agent just left without further comment.

(46) After the May 21, 1989 incident referred to in the Rasmussons' letter, Mark Rasmusson filed a written complaint with the U.S. Customs District Office in El Paso, Texas. On or about June 7, 1989, Mark Rasmusson received a letter from Mike Mack, the District Director, El Paso, Texas who essentially denied and explained away the allegations in Mark Rasmusson's complaint, (see Exhibit 2).

(47) On or about June 8, 1989, Mark and Deborah Rasmusson received a letter from Senator Kennedy in which he states he referred the letter of complaint to the Senate Finance Committee, which oversees the United States Customs Service, (see Exhibit 3).

(48) On or about June 16, 1989, Mark Rasmusson wrote another letter to Senator Kennedy in which he informs Senator Kennedy that he had received a response from the USCS that glossed over his complaints, (see Exhibit 4).

(49) On or about June 20, 1989, Mark and Deborah

Rasmusson received a letter from Senator Lloyd Bentsen in which he states, "Thank you for your recent letter concerning inspections at the El Paso Airport by U.S. Customs officials. In an effort to be of assistance to you, I have been in touch with the Customs Service on your behalf, and will contact you as soon as I have something substantive to report. I appreciate having the opportunity to assist you.

(50) On or about July 27, 1989, Mark and Deborah Rasmusson received another letter from Senator Bentsen in which he states, "Enclosed is a copy of an interim report I received recently in response to my inquiry on your behalf. I will be in touch with you again as soon as I receive any further word," (see Exhibit 5).

(51) The enclosed letter referenced by Senator Bentsen (dated July 18, 1989), addressed to The Honorable Lloyd Bentsen and from Charles R. Parkinson, Associate Commissioner for Congressional and Public Affairs, Department Of The Treasury, U.S. Customs Service, Washington, D.C., states "This is to acknowledge receipt of your letter dated June 20, 1989, wherein you stated that your constituents, Mark & Debra Rasmusson, are experiencing difficulties clearing Customs. We wish to advise you that we are looking into this matter and will respond to you further as soon as possible" (see Exhibit 6).

(52) On or about October 10, 1989, Mark and Deborah Rasmusson received another letter from Senator Bentsen in which he states "Enclosed is a copy of the report I have received from officials of the Customs Service in response to my inquiry on your behalf. I trust this information will be of use to you and that you will find the report self-explanatory. It has been my pleasure to look into this matter. If I may be of service in the future, please let me know," (see Exhibit 7).

(53) The enclosed letter referenced by Senator Bentsen dated October 2, 1989, addressed to The Honorable Lloyd Bentsen and from Michael H. Lane, Acting Commissioner, The Commissioner of Customs, Washington, D.C., is obviously a general letter promoting the virtues of USCS and not addressing the allegations of Mark and Deborah Rasmusson, (see Exhibit 8).

(54) Unknown to Mark and Deborah Rasmusson, the Customs Service in cooperation with other federal agencies had initiated an investigation of them at least one to two years prior to their letter to Senator Kennedy in May of 1989, which resulted in federal agents interviewing RASMARK current & former employees, business associates, customers, and friends and family.

(55) With the voluminous documentation in the Federal Aviation Administration (FAA) files and in USCS' own files in the El Paso District Office, all easily accessible to the AGENTS, the AGENTS would have easily learned that RASMARK has always complied with governmental regulations or brought itself in compliance when any irregularities were brought to its attention by one of the regulatory agencies.

(56) Clearly, a history of compliance is notice to the AGENTS to carefully check out the background of the company before initiating a full-scale investigation based on inflammatory half truths, misinterpretations, misrepresentations, misleading statements, rumors and outright fabrications. However, the AGENTS in their recent depositions acted as if background information was unimportant and of no consequence.

(57) Defendant FROST, on behalf of himself, USCS, and other members of the FTF, testified he did an EPIC search, however, he could recall no specifics without the case files; of course, he did not bring any case files to the deposition. He testified he requested all participating agencies to provide any information they had or informant debriefings; yet, FROST testified that they seized an aircraft, N7GP, that possibly belonged to either Guillermo Portillo or RASMARK. A simple check of the FAA Aircraft Registry would have revealed the entire title history and would have shown that only PORTILLO was listed as owner, while RASMARK legally listed N7GP on its Air Taxi Certificate and later filed and perfected a mechanics lien on the aircraft after PORTILLO failed to pay his outstanding RASMARK invoices for hangar, maintenance and charter services rendered.

(58) Defendant LENOX, on behalf of himself, DEA, and other members of the DEA OCDETF task force, testified in his deposition that during the DEA OCDETF investigation of Jesus Flores, a well-documented criminal by DEA from as early as 1984, he did not do any type of background check on Mark B. Rasmusson before initiating the DEA OCDETF investigation against him.

(58) Defendant SALAS, on behalf of himself, EPPD, and other members of the FTF, testified that after he accepted employment with the Rasmussons to do private security and bodyguard work, he then got concerned and decided to check the EPPD records, and when he found that information to be insufficient, he then contacted a friend of his who works for the FBI and asked him to check out the Rasmussons so he could determine whether he should continue to work for them. However, the result of SALAS' background check led to SA FROST contacting him and SALAS agreeing to provide information about the Rasmussons to FROST, USCS, and other members of the FTF. Obviously, SALAS became an undercover law enforcement informant for USCS and the FTF.

(59) Defendant HIVICK, on behalf of herself, IRS, and other members of the FTF, testified she probably did a background check on all of the Plaintiffs, which would have included a check through TECS, of airplane tail numbers in the TECS system to see about international flights, through database that contains the CTRs and CMIRs. She further testified that she didn't learn anything from those records that would have led her to believe that M. RASMUSSON was engaged in, or engaging in, any type of criminal activity related to drug smuggling or money laundering, violations of the Bank Secrecy Act, tax evasion, mail fraud.

(60) Defendant HOLLAND, on behalf of himself, EPPD, and other members of the FTF, testified in his deposition with respect to the interrogation of Plaintiff GANTKESSY on June 2, 1993, in which he participated, prior to that occasion he did not do any type obtain on his own or receive from the FTF any type of background information of Plaintiff GANTKESSY. He further testified that prior to the June 2,

1993 interrogation, he didn't have any information that would have led him to believe that Plaintiff GANTKESSY was involved in any kind of criminal activity.

(61) Defendant SCHROEDER, on behalf of himself, USCS, and other members of the FTF, testified in his deposition that before getting started with the FTF assignments, he did not do any background checks on any of the Plaintiffs. With respect to checking the FAA records, SCHROEDER testified that he believes that information to be classified as an investigative technique and that he didn't think he can testify one way or the other if he did that. With respect to the IRS databases, SCHROEDER again replied "that's an investigative technique that I do not believe I can testify about." With respect to checking the case files, databases or interviewing other law enforcement agents who worked closely in the previous DEA OCDETF investigation of Jesus Flores, in which Plaintiff M. RASMUSSON was indicted, SCHROEDER testified either "no" or "not that I recall".

(62) Defendant MILLS, on behalf of himself, USCS, and other members of the FTF, testified that he doesn't think he did any type of background check to see what information he could find out about M. RASMUSSON.

(63) Defendant ACOSTA, on behalf of himself, FBI, and other members of the FTF, testified that during a meeting with his supervisor and some personnel from Customs, they went over to USCS' offices and they explained what they were looking at, if the FBI wanted to join the investigation, what assistance they (FBI) could provide. However, when asked what information he was given, AUSA ROBINSON objected to the form of the question, saying it was irrelevant to the issues of qualified immunity, preventing ACOSTA from revealing the nature of any type of suspicion or probable cause as the basis of continuing the USCS investigation (which FROST testified was initiated in or about 1989 by USCS with John PETERSON as the case agent, although the Plaintiffs documentation show a much earlier time period) through the FTF

(64) Defendant BAKER, on behalf of himself, EPSD, and other members of the FTF, testified that he did receive a background briefing of the Plaintiffs; however, he was prevented from testifying to what information he was given by the Assistant County Attorney CASTILLO, on the grounds that BAKER's response might reveal information which protected by the grand jury privilege and also might be protected by the investigative privilege.

(65) The pattern of all the federal and state Defendants suddenly engaging in obstructive tactics to prevent the Plaintiffs from uncovering the true facts leads to the reasonable inference that the Defendants orchestrated a bogus and sham investigation against all of the Plaintiffs.

(66) In addition, RASMARK 's aircraft were frequently searched without a warrant and without probable cause when the flights were purely domestic. The strip searches of passengers and crew exceeded reasonable bounds, causing, embarrassment, harassment, and intimidation of the flight crews and passengers. These Customs agents often would not identify themselves before or after they completed their mission of harassment and intimidation. The following occasions of searches of RASMARK aircraft in June and September of 1993 are representative of the type of unlawful searches implemented by the USCS and FTF.

(67) On or about June 1, 1993, RASMARK pilot Bill Jiles, filed a flight plan to fly the Falcon to Brownsville. However, the customer called and the flight plan was canceled. Certain maintenance was being carried out on the Falcon and JILES taxied the Falcon to the run-up area on El Paso International Airport. After completing the engine run-up, JILES taxied Falcon to the RASMARK hanger and two cars of federal agents and other members of the FTF followed the plane. RASMARK employee, Julio Parra, walked to where the Falcon stopped and put chocks on the wheels. FROST, SCHROEDER, EPPD Defendant HOLLAND, on behalf of themselves, USCS and the FTF, asked Mr. Parra to go with them to their office for a talk. Mr. Parra declined the invitation and stated that RASMARK was not doing

anything wrong and he had nothing to talk to the agents about.

(68) JILES did accompany the agents to their office at Cutter Beechcraft. The agents were interested in how many passengers were in the plane. None, because the plane had not gone anywhere. The agents had no cause to stop the plane.

(69) In or about June of 1993 Defendant ACOSTA, on behalf of himself, USCS, and the FTF, subpoenaed the bank records of RASMARK from approximately two banks, one being the State National Bank and the others unknown at this time.

(70) On June 16, 1993, RASMARK dispatched pilot Mr. David Jackson and copilot Mr. Bertilsson to Douglas, AZ to pickup 105 pounds of seat belts for Allied Signal, Inc., and deliver the cargo to Mark III Industries in Ocalla, Florida.

(71) The flight plan called for stopping in Dallas Love Field to refuel. At Dallas Love Field, the plane pulled off the runway and on to the taxi way. A vehicle had the taxi way blocked. Mr. Jackson called ground control to inquire about the vehicle which was later identified as a Dallas Police car.

(72) A USCS Citation jet pulled up behind RASMARK's Lear Jet; and a USCS helicopter hovered directly above the Lear Jet with its search light shining on RASMARK's aircraft.

(73) A van pulled up near the jet and approximately ten (10) U. S. Customs agents and Dallas Police officers surrounded the RASMARK jet in a semicircle with guns drawn pointed at the plane. No agent came forward to identify himself as in charge of the raid. The copilot, Mr. Bertilsson, opened the top half of the exit door. The agents ordered him to keep his hands where they could be seen and to exit the jet. Keeping his hands in front of himself, he climbed over the lower half of the door and landed on the concrete. The pilot, Mr. Jackson, was still in the plane.

(74) Mr. Bertilsson was ordered to kneel on the tarmac, cross his ankles and put his hands on the top of his head. He complied. The agents placed handcuffs on Mr. Bertilsson and put him in the van. The driver of the van sped to the west side of the field where he stopped and got out to talk to other agents.

(75) The pilot, Mr. Jackson, was ordered to get out of the jet and to keep his hands so the agents could see them. Mr. Jackson complied and exited the plane in the same way as the copilot. Mr. Jackson was ordered to kneel on the tarmac with his hands on his head. One agent had a gun pointed at Mr. Jackson's head. Jackson was taken away from the plane and questioned about the cargo.

(76) An agent ordered Mr. Jackson to move the plane to the Jet East building on the East side of the field. One agent went with Mr. Jackson in the Lear jet as it was taxied to Jet East building.

(77) A female agent asked if Mr. Jackson would sign a consent to search form. Mr. Jackson asked "what if I refuse?" "If you refuse then I will have to keep you overnight until we can get a search warrant", said the agent. Mr. Jackson stated that was unacceptable since the cargo was time sensitive and it must be in Ocalla as soon as possible. The cargo must be delivered on time otherwise RASMARK would lose the Allied Signal account. Mr. Jackson did not want to sign the consent to search form and the only reason that he signed the form was to prevent RASMARK from losing the customer.

(78) The three boxes of seat belts were removed from the plane and a narcotics detector dog brought in from El Paso searched the cargo boxes and the interior of the plane.

(79) The agents requested that Mr. Jackson produce the aircraft papers, his pilot's papers and his resident alien card. The agents made copies of the documents.

(80) The dog chewed a hole in one of the boxes and had one of the seat belts in its mouth. The agent then pulled the dog off the boxes.

(81) When Mr. Jackson asked the agent why they had raided his airplane, the agent stated that they received information or a phone call that the plane needed checking. This company has had planes searched before. The agent stated that yes we are familiar with your company and indicated that RASMARK is on a "hit list".

(82) After a few minutes sitting in the van the agents opened the door and let Mr. Bertilsson out. About ten minutes later, the agent took off the handcuffs.

(83) A female agent talked to Mr. Bertilsson. She could not understand why a company would pay for three small boxes to the boxes of car parts. The dog handler offered no reason why the dog reacted to the boxes when there was no narcotics there. Nor did the dog handler offer an explanation as to why the dog chewed the car parts and box.

(84) Mr. Jackson left Gainesville, Florida in the afternoon heading back to El Paso. On arrival in El Paso, there was no further interference by the agents.

(85) This raid was not a spur-of-the-moment action by the AGENTS. Instead, this raid is but one example of what became routine investigative technique carried out by FROST. FROST never had any probable cause nor did FROST think it was necessary in order to search any RASMARK jet on a cargo flight. FROST relied on obtaining consent to search from the RASMARK jet crew because FROST knew that companies who paid for jet cargo service were in a major hurry for prompt delivery of the cargo. Therefore, the threat of delaying a RASMARK cargo flight would always result in obtaining consent to search since the other option was for RASMARK to lose the customer for future cargo business. FROST could have elected to stop a RASMARK jet anywhere in the United States during a time that the federal courts would be open to obtain a warrant. But that would open the possibility that one crew would say get a warrant which FROST knew he could not do. FROST's tactic completely trampled on the constitutional rights of RASMARK, Mark Rasmusson and Deborah

Rasmusson.

(86) On or about September 1, 1993, RASMARK pilot David Jackson was in Dallas at Signature Flight Support when two DEA agents approached and questioned him. The agents said they wanted to search the plane. JACKSON requested to see their search warrant. One agent replied that he did not need a warrant. JACKSON called the RASMARK office in El Paso where he was told that only FAA inspectors could inspect the plane without a warrant. JACKSON repeated this information to the DEA agents. The DEA agent called for an FAA inspector to meet him. They went to the plane and the FAA inspector checked that plane, pilot and copilot papers and looked around inside the plane. The FAA completed the inspection. JACKSON told the DEA agent that if he wanted to inspect the plane he would have to obtain a search warrant. As the agents and inspector were leaving, the DEA agent said "I hope you finish law school soon".

(87) Unknown to Mark and Deborah Rasmusson, USCS Special Agent (SA) John Peterson (PETERSON), other USCS agents, during the period from 1987 through March of 1992 conducted an active Customs Service investigation of them until the case was taken over by another USCS special agent, Lawrence E. Frost (FROST), in conjunction with the USCS Financial Task Force (FTF); the case was later expanded to include Plaintiff Andrew A. Gantkessy.

(88) Out of the entire time that PETERSON, on behalf of himself and the USCS, conducted this investigation against Plaintiffs Mark and Deborah Rasmusson and RASMARK, no criminal charges or indictments were ever filed against any of the Plaintiffs pertaining to money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion. The inference is clear that the investigation revealed no credible evidence of criminal activity or the Plaintiffs participating or operating any type of criminal enterprise.

(89) Nothing changed about the Plaintiffs in or about March of 1992 when FROST, SCHROEDER, MILLS, BROWN, KING, HIVICK, ACOSTA, SALAS, HOLLAND, BAKER and KEITH took

over the bogus case. Mark and Deborah Rasmusson and RASMARK were still operating their business in a lawful manner.

(90) During the period from 1987 through March of 1992, RASMARK enjoyed tremendous growth in the jet charter business. The primary reason for its success was RASMARK's emphasis on customer satisfaction and competitive prices, often lower than its competitors. Eighty to ninety percent of its business consisted of flying cargo freight for Ford Motor Company, making Ford its primary source of income.

(91) However, RASMARK also provided passengers and ambulance services to the general public. A small charter company offers a highly specialized service in that it charters the entire plane to one customer at a time. The customer pays either a one-way or round-trip fee calculated on whether it's for passenger services or cargo; if cargo, the amount of weight generally determines which plane is used and whether its a one-way or round trip, destination, mileage and other incidental fees depending on circumstances. If for passenger services, generally the number of passengers determines the type of aircraft and of course, the destination, mileage, whether its a one-way or round trip, and other incidental fees depending on circumstances.

(92) The small charter business is not a high volume business because the cost is much greater than flying in a regular commercial aircraft of a major airline. Because of RASMARK's location, its services are used equally by Mexican nationals as well as Americans. RASMARK's goal is to get its customer from point A to point B safely and efficiently so as to make a profit. Small charter services are not required by the Federal Aviation Administration, or other applicable federal agencies, to have the type of security system that the major commercial airlines must operate. Nevertheless, RASMARK is highly security conscious and instruct its pilots and staff to be on the lookout for any unusual circumstances that would lead to a strong suspicion that a potential customer might be engaging in criminal activity. However, were RASMARK to ask its customers to open up their baggage or submit to pat downs and body searches, it

surely would be out of business fairly quickly because customers who are paying thousands of dollars want to feel special and important not like they are going through a regular airlines with the same inconveniences of major airlines.

(93) Therefore, if an individual presents himself in a professional and business-like manner, does not act suspicious or bring any baggage that looks suspicious, and has either cash or credit card, RASMARK will sell its charter services to this individual gladly, or lose opportunity to a competitor.

(94) Prior to FROST taking over the USCS' investigation of the Plaintiffs, several events took place involving a DEA OCDETF investigation of a true criminal enterprise being operated by Jesus Flores (FLORES). State, local and federal law enforcement agencies had investigated FLORES as early as 1984 and watched his organization grow into a major drug smuggling and money laundering operation. From law enforcement undercover work, criminal informants, surveillance to wire taps, the Government learned who the major and minor associates of FLORES were and the sources of his contraband and means of transportation and distribution. Neither Mark B. Rasmusson, Deborah L. Rasmusson or RASMARK were ever part of FLORES' inner circle of associates nor were they identified by DEA as targets in the DEA-6 application for OCDETF status.

(95) Although FLORES engaged in criminal activity, that does not mean that every act ever performed by FLORES was criminal in nature or was for a criminal purpose. Such a noncriminal act occurred in or about February of 1990, when FLORES presented himself to RASMARK in a professional and business-like manner, did not act suspicious, did bring suspicious looking baggage, presented himself as the owner of Vista Remodeling Company, a remodeling business in El Paso, and had the necessary cash to pay for the charter services he requested.

(96) Unknown to Mark or Deborah Rasmusson or to any of the employees of RASMARK, FLORES led a double life as a person

engaging in criminal activities pertaining to drug smuggling and money laundering.

(97) Also unknown to Mark or Deborah Rasmusson, Peter Seaverns (P. SEAVERNS) and Joseph Seaverns (J. SEAVERNS), the owners of Dove Motors Company, a car dealer that sold rather nice expensive used cars and from whom the Rasmussons purchased their cars, led a double life as associates of FLORES, actively engaging in criminal activities. On some occasions when Mark and Deborah Rasmusson would stop by Dove Motors to check out the latest car arrivals, they would also booster their charter services to encourage a mutual exchange of business between Dove Motors or any of Dove Motors's customers, who generally were people with higher incomes; P. SEAVERNS in turn would booster his business and promise to tell his good customers (meaning the ones with the income that could afford private charter services) about RASMARK.

(98) Hence in or about February of 1990 is when FLORES first made his appearance at RASMARK and purchased charter services, which, of course, is what RASMARK is in business to do--sell charter services from point A to point B for a reasonable fee.

(99) At no time during the entire period of time the Rasmussons knew P. SEAVERNS, J. SEAVERNS or FLORES did either of them ever reveal any criminal activity to Mark or Deborah Rasmusson or to the employees of RASMARK. Mark and Deborah Rasmusson learned from the news about the criminal activities of these individuals and were shocked by this news.

(100) Certainly because of the fact that FLORES had purchased charter services from RASMARK gave notice to Mark and Deborah Rasmusson that they might eventually be approached by federal agents investigating FLORES and his associates. That time came in or about August 23, 1990. Mark and Deborah Rasmusson felt it was their duty to fully cooperate and provide whatever information they had in their files pertaining to FLORES to the agents.

(101) However, unknown to Mark and Deborah Rasmusson before their first interrogation by DEA agents on or about August 23, 1990, the Drug Enforcement Administration (DEA), the lead federal agency in the Organized Crime Drug Enforcement Task Force (OCDETF) case against FLORES, had thoroughly investigated FLORES and his organization, using wire taps, surveillance, informants, learned all the details of how FLORES operated, identified his criminal associates, learned how he obtained and transported his drugs and proceeds of his unlawful activities. In other words, the DEA already had its case made against FLORES and his associates. The only purpose of going to RASMARK was to find a way to snare either Mark or Deborah Rasmusson or RASMARK in criminal associates trap. DEA knew that getting an indictment would be easily by presenting Mark Rasmusson along with the true criminal associates to the Grand Jury and creating the appearance that the legitimate charter services were for the purpose of aiding and abetting FLORES.

(102) DEA Group Supervisor ("GS") AGUIRRE, DEA SA's LENOX and PERKINS, were the case agents. Together they orchestrated the investigation against Mark and Deborah Rasmusson and RASMARK. Each of these agents are Defendants in the present case.

(103) According to Defendant LENOX, the DEA OCDETF objectives were to work this investigation in conjunction with the Texas DPS Narcotics Unit, the Internal Revenue Service, and the Immigration and Naturalization Service using electronic surveillance and other investigative techniques. The goal of the agents and officers was to obtain drug and non-drug evidence relative to FLORES and his organization and to identify and seize assets, monies and properties related to profits being made by Flores and his associates through the sale of illicit narcotics.

(104) Unknown to Mark and Deborah Rasmusson before the very first interrogation on or about August 23, 1990, the DEA already had targeted Mark and Deborah Rasmusson and their company, RASMARK for seizure and forfeiture.

(105) Unknown to Mark and Deborah Rasmusson, the DEA already had obtained an indictment against FLORES filed on or about June 20, 1990, at least two months before the DEA's subpoena to RASMARK on or about August 17, 1990 and the first interrogation of Deborah Rasmusson on or about August 23, 1990.

(106) Unknown to Mark and Deborah Rasmusson, prior to the DEA's first interrogation of Deborah Rasmusson, USCS and IRS had initiated a separate investigations of them and RASMARK, (in addition to the PETERSON's investigation in or about 1987 through 1992). The USCS and IRS investigations of RASMARK was joined into and became a part of the OCDETF investigation of Guillermo Portillo, a wealthy Mexican businessman, who USCS and IRS suspected was operating a money laundering scheme. It turned out that no money laundering was taking place but Mr. Portillo may have violated Mexico's laws pertaining to conversion of pesos to dollars or some other financial laws involving transfers of large sums of cash from Mexico to the U. S. and back to Mexico. The Portillo OCDETF investigation was decertified but the RASMARK portion continues to this day. As previously stated, the entire business relationship between RASMARK and PORTILLO is well documented in the FAA Aircraft Registry records easily accessible to PETERSON, FROST, SCHROEDER, MILLS, BROWN, KING, HIVICK, SALAS, HOLLAND, BAKER, and KEITH.

(107) Unknown to Mark and Deborah Rasmusson prior to the DEA's subpoena to RASMARK on or about August 17, 1990 and the first interrogation of Deborah Rasmusson on or about August 23, 1990, the DEA, USCS, and IRS were essentially competitors, competing to get assets RASMARK; the goal was to sweep the law enforcement net over either Mark or Deborah Rasmusson or RASMARK as criminal associates of FLORES, hence obtain a conviction by association. Because FLORES utilized the legitimate charter services of RASMARK and Mark Rasmusson was a pilot and owner of RASMARK, the DEA unlawfully threw Mark B. Rasmusson into the law enforcement net.

(108) Unknown to Mark and Deborah Rasmusson, prior to

the DEA's subpoena to RASMARK on or about August 17, 1990 and the first interrogation of Deborah Rasmusson on or about August 23, 1990, the DEA had a wire-tap tape with one conversation where FLORES initiated a telephone call to RASMARK, asking Mark Rasmusson whether he knew where FLORES could find a Cessna 206 engine; all Mark Rasmusson did was offered the use of his trade publications if FLORES wanted to come in and look through them. Additionally, FLORES initiated conversation about Dove Motors Company's past due balance owed to RASMARK in which he indicated that he would send someone over to pay it. RASMARK being essentially a "mom and pop" corporation, Mark B. Rasmusson had recently gone by FLORES' residence in an effort to collect the overdue invoices on behalf of RASMARK. A company the size of RASMARK whose business depends on personal services would not generally send a collection agency or attorney to collect until all personal efforts of the company have failed; keeping a paying customer often is more important than timeliness of payments.

(109) The DEA took the one telephone call and the one instance RASMARK attempted to collect its overdue invoices and tried to show some type of personal, ongoing criminal relationship between Mark Rasmusson and FLORES. The Government failed to produce any credible evidence during the criminal trial to prove its allegations. FROST, in his two affidavits of November 19, 1993, said he reviewed all of the DEA case files and criminal trial transcript. Yet, FROST repeatedly used uncorroborated informants' information that were supposed to be documented in DEA case files or from the criminal trial transcript; yet this information conflicts with the findings of the DEA OCDETF investigation and the subsequent trial transcript.

(110) FROST states in his two affidavits of November 19, 1993 that "I have received a written report from Federal Bureau of Investigation (FBI) Special Agent Joe Acosta. This report is dated June 7, 1993. This report details an interview conducted with an individual who is referred to as a reliable confidential informant. I have been told by Special Agent Acosta that the confidential informant who provided the information contained in this report had close ties to and was

criminally involved with the high ranking members of the Jesus FLORES controlled substance trafficking organization during the years that FLORES was active.

(111) The FBI confidential source stated that Jesus FLORES and Arturo BERMUDEZ were introduced to Mark RASMUSSON by Pete SEAVERNS in 1988. **The FBI source stated that Mark RASMUSSON became involved in money laundering with FLORES**. The FBI source further stated that Mark RASMUSSON **was** buying aircraft parts with the proceeds of trafficking in controlled substances. The FBI source also stated that Jesus FLORES was involved in money laundering with an individual named Hector SAENZ. Hector SAENZ is a major money laundering suspect currently under investigation by U.S. Customs.

(112) The FBI source stated that **Hector SAENZ** worked with Mark RASMUSSON **and Ricardo VALDEZ** in their money laundering activities. The source stated that he/she had personnel knowledge that in the past Mark RASMUSSON would travel throughout the United States in his aircraft and collect proceeds of trafficking in controlled substances and then deliver the proceeds to the interior of the Republic of Mexico.

(113) The FBI source stated that Mark RASMUSSON received approximately $500,000.00 in controlled substance proceeds from Jesus FLORES during 1989 and 1990. The majority of the money Mark RASMUSSON received from FLORES was used to purchase aircraft parts, aircraft engines and pay expenses incurred during his (Mark RASMUSSON's) money laundering activities. Any person who engages in a financial transaction involving funds which were derived from the commission of trafficking in controlled substances has committed a violation of Title 18 United States Code section 1957." (See **Paragraphs xxx of FROST'S Affidavits of November 19, 1993**)

(114) A thorough search of the DEA case files and the criminal trial transcript reveal no such information that FROST is citing above. The Government presented testimony from both law

enforcement undercover officers (mainly EPPD police officers) and criminal informants (close criminal associates of FLORES). No such information was ever uncover or even intimated at the trial of Mark Rasmusson.

(115) FROST, on behalf of himself, USCS, and other members of the FTF, during his deposition of January 10, 1997, testified that he relied strictly on the reports provided to him by ACOSTA; that he did not interview any of the EPPD officers who participated as undercover operatives for the DEA OCDETF investigation of FLORES; that he did not interview any of the criminal informants who testified during the FLORES criminal trial. Therefore, he did not obtain any kind of independent corroborating evidence of any allegations made in the FBI reports received from Defendant ACOSTA.

(116) ACOSTA, on behalf of himself, FBI, and other members of the FTF, in his deposition of January 24, 1997 was not permitted to answer the question whether he personally interviewed the informant in June of 1993 prior to sending the report to FROST OR in 1990 prior to FLORES' criminal trial or whether he had any first-hand interview with the informant.

(117) ACOSTA, on behalf of himself, FBI, and other members of the FTF, testified, however, that he did not do any type of follow-up investigation pertaining to any information in the report of June 7, 1993 that he sent to FROST; that the information contained in the report was not obtained by him; that the information was obtained by another agent named William May (MAY) and that he did not know what MAY did to corroborate the information.

(118) FROST stated in his two affidavits of November 19, 1993 that "on November 3, 1993 I received a written report from FBI Special Agent Joe Acosta. This report provided information from an FBI confidential source this source is referred to in this report as FBI-1.

(119) According to the FBI report FBI-1 stated that during December, 1991 he/she was inside of the RASMUSSON residence at

11157 Leo Collins Dr. El Paso, Texas. On this occasion FBI-1 saw a large suitcase in Debra RASMUSSON's bedroom closet. Inside of the suitcase FBI-1 reported that he/she saw what appeared to be controlled substances and U.S. currency. FBI-1 reported that the contents of the suitcase were clear plastic bags containing a white powder substance and other packages wrapped in tin foil. FBI-1 further reported that the currency in the suitcase was of various denominations.

(120) FBI-1 also reported that during February, 1992 he/she had seen three or four storage type boxes underneath Debra RASMUSSON's bed and in Debra RASMUSSON's closet. FBI-1 reported seeing business records from RASMARK Jet Charter including fuel bills and statements and flight planning forms. One of the boxes contained 20 to 30 bank statements. The bank statements were from bank in Colorado, Alaska, Cabo San Lucas, Mexico, New York and the Cayman Island.

(121) FROST, on behalf of himself, USCS, and other members of the FTF, during his deposition of January 10, 1997, testified that he relied strictly on the reports provided to him by ACOSTA; that the report corroborated information that they already knew and if it didn't they made attempts to verify it through various interviews or physical evidence.

(122) However, FROST, USCS, and the FTF have the same problem regarding the FBI-1 that they have with the June 7, 1993 report--lack of independent corroboration. The November 3, 1993 report does not indicate that the FBI did any type of follow up investigation or brought any type of charges against the Rasmussons or that the EPPD was summons by the FBI source to retrieve the drugs and currency from the Rasmussons' home. The reason there is no follow up or independent corroboration is because these alleged incidents did not happen.

(123) FROST, on behalf of USCS, ACOSTA, on behalf of the FBI, and both on behalf of themselves and the FTF, attempted to construct an appearance of criminal activities by attempting to link

alleged stale informants' reports of June 7, 1993 and November 3, 1993, without any showing of credibility, veracity and reliability of the informants, to the Rasmussons and RASMARK.

(124) Therefore, when FROST presented this uncorroborated information in his two affidavits of November 19, 1993, the Magistrate Reusch was robbed of her opportunity to make a detached and neutral decision in granting the search warrants.

(125) The same is true for the affidavit of May 26, 1992 that FROST presented to the Magistrate pertaining to the box taken from Deborah Rasmusson on May 23, 1992. The details of this incident is discussed elsewhere in the complaint.

(126) Unknown to Mark and Deborah Rasmusson, prior to the DEA's subpoena to RASMARK on or about August 17, 1990 and the first interrogation of Deborah Rasmusson on or about August 23, 1990, the DEA already had interviewed in or about June 22, 1990 one of FLORES' associates, Luis A. GARCIA, who told the agents that FLORES had chartered RASMARK aircraft to fly some of his family, friends or associates to different locations in both the U.S. and Mexico, with the most recent charter being on or about June 11, 1990. However, because the DEA's reports of investigation were not acknowledged or signed by GARCIA attesting to the accuracy of the alleged statements, the only purpose of these reported statement is to give the appearance that the Rasmussons and RASMARK were participating in promoting FLORES' criminal organization; neither did the Government have GARCIA to testify as a witness in the FLORES criminal trial to testify to the alleged unlawful purpose of the RASMARK charters. When the Court acquitted Mark B. Rasmusson, it stated that the Government failed to produce any evidence that any of the trips flown by RASMARK aircraft were for an unlawful purpose or that Mark Rasmusson or RASMARK did anything after the trip to procure completion of any of FLORES' criminal goals.

(127) Since FROST as the lead case agent, on behalf of himself, USCS, and the other members of the FTF, read all of the DEA

case files and criminal trial transcript, he knew, or should have known, that neither DEA or the Government produced any such evidence of the Rasmussons transporting drugs or currency anywhere in the United States or in Canada or Mexico.

(128) Since FROST as the lead case agent, on behalf of himself, USCS, and the other members of the FTF, read all of the DEA case files and criminal trial transcript, he knew, or should have known, that neither DEA or the Government produced any such evidence of the Rasmussons purchasing $500,000.00 in aircraft parts with the proceeds of drug smuggling from the FLORES' organization.

(129) The fact that FROST, on behalf of himself, USCS, and other members of the FTF, placed this bogus information in the two affidavits of November 19, 1993, again, robbed Magistrate REUSCH of her opportunity to make a detached and neutral decision on issuing the two search warrants.

(130) Unknown to Mark and Deborah Rasmusson, prior to the DEA's subpoena to RASMARK on or about August 17, 1990 and the first interrogation of Deborah Rasmusson on or about August 23, 1990, IRS SA ROBERT MARTINEZ, USCS SA PAUL NEELY and USCS SA FRED SCHROEDER were attempting to connect the Rasmussons and RASMARK to other money laundering investigations such as the GUILLERMO PORTILLO case and to OPERATION TRANSWESTERN.

(131) The one constant problem that FROST, on behalf of himself, USCS, and other members of the FTF could not solve was the fact that the Rasmussons, RASMARK or GANTKESSY were not engaging in any type of criminal activity pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion. The AGENTS set out to manufacture by harassment, intimidation, coercion and retaliation of the Rasmussons themselves and GANTKESSY to try and make a case.

(132) FROST, on behalf of himself, USCS, and other

members of the FTF, relied heavily on the DEA-6 REPORT OF INVESTIGATIONS that the DEA prepared during their bogus investigation of the Rasmussons and RASMARK, resulting in the indictment of Mark B. Rasmusson. However, neither FROST, USCS, or any other members of the FTF, obtain any independent corroborating evidence of any of the matters in the DEA-6 reports, none of which was signed by the witness or memorialized by tape recorder at the time the alleged statements were made.

(133) Defendants LENNOX, PERKINS, E. CHAVEZ, and AGUIRRE, were responsible for the bogus DEA investigation against the Rasmussons that resulted in the indictment of Mark B. Rasmusson.

(134) On or about August 17, 1990, Defendant PERKINS and Defendant ELI P. CHAVEZ (DEA SA) delivered an administrative subpoena to RASMARK which states, in part,

> "Pursuant to an official criminal investigation being conducted by the Drug Enforcement Administration of a suspected felony, it is requested that your company furnish all files, receipts and/or registration cards, and any other miscellaneous records and information concerning the following: Vista Remodeling, Jesus A. Flores, Joe Peake, Pete Seaverns, Jesus Moncada, Mike Villalba, Juan Lozoya, Arturo Bermudez, Arturo Obregon-Sosa.
>
> You are not to disclose the existence of this request. Any such disclosure could impede the investigation being conducted and thereby interfere with the law."

Mark and Deborah Rasmusson attempted in good faith to comply with all the terms of the DEA Subpoena, (see **Exhibit 9**).

(135) However, unknown to the Rasmussons, the DEA had already targeted them for criminal prosecution, and DEA knew USCS already had an official investigation going against the

Rasmussons at the same time. Defendant SCHROEDER, on behalf of himself and the USCS, was a member of the DEA OCDETF Task Force investigating FLORES and the Rasmussons.

(136) On or about August 23, 1990 and prepared on August 26, 1990, DEA SA PERKINS and SA CHAVEZ went to RASMARK approximately 1:00 P.M. under the pretext to simply check on the return for subpoena #M7-90-512. However, while at RASMARK they proceeded to conduct an in-depth interrogation of Debra Rasmusson. Although PERKINS and CHAVEZ knew Mark and Deborah Rasmusson were under official investigation by the USCS, and that the DEA also were targeting them as co-conspirators of FLORES, PERKINS and CHAVEZ did not advise Debra Rasmusson of her constitutional rights not to answer the agents questions.

(137) Among the documents given in response to the subpoena were some reconstructed invoices, which PERKINS encouraged the Rasmussons to prepare. Since reconstructions of business records is normal for most businesses, if not all, the Rasmussons had no idea that DEA was planning to use these documents against them, (see **Exhibit 10**).

(138) Even though the Government used the reconstructed invoices against Mark B. Rasmusson, which FROST refers to in his two affidavits of November 19, 1993, on or about May 29, 1991, PERKINS and SA Steven WHIPPLE themselves made a reconstructed DEA-6 of their interrogation and consent search of one of FLORES co-conspirator Luis GARCIA. The original DEA-6 written by SA WHIPPLE was misplaced and not relocated, according to PERKINS. Although RASMARK had other original documentation of the FLORES charters, LENOX, PERKINS, E. CHAVEZ and AGUIRRE chose to give a criminal interpretation to some of RASMARK's missing invoices, and the subsequent reconstructions, for the purpose of creating the appearance of criminal activity on the part of the Rasmussons, in that they were supposed to be unlawfully hiding incriminating evidence of their criminal association with FLORES. This issue was fully litigated during the criminal trial and the Government produced no evidence of

any illegality; only normal business practice was shown. Deborah Rasmusson testified as a Government witness and was thoroughly examined on direct and cross.

(139) On or about August 23, 1990 and prepared on September 17, 1990, PERKINS and CHAVEZ went to RASMARK at approximately 3:35 P.M. and conducted an in-depth interrogation of Mark and Deborah Rasmusson and RASMARK's pilot Jerry Burnett. Although PERKINS and CHAVEZ knew Mark and Deborah Rasmusson were under official investigation by USCS and DEA, PERKINS and CHAVEZ did not advise Mark or Debra Rasmusson of their constitutional rights not to answer the agents questions, (see **Exhibit 11**). Jerry Burnett testified as a Government witness and was thoroughly examined on direct and cross.

(140) On or about August 23, 1990 and prepared on August 27, 1990, LENOX, PERKINS and CHAVEZ conducted an in-depth interrogation of Peter Seaverns at approximately 4:00 P.M. at the Holiday Inn, Sunland Park, in which it is reported that, "P. SEAVERNS said that FLORES once called him and told him to go to RASMARK AVIATION and meet him there. P. SEAVERNS thought that he was going to be paid for a jewelry transaction..."; however, RASMARK was not a part of the jewelry transaction or had any knowledge of the underlying purposes of SEAVERNS, FLORES, or any of his associates, (see **Exhibit 12**). No independent corroborating evidence was ever produced to document the Rasmussons or RASMARK as having anything to do with any of FLORES' operations. RASMARK simply sold to VISTA REMODELING COMPANY its legitimate charter services from point A to point B and nothing more; none of VISTA REMODELING COMPANY employees or associates of FLORES ever discuss their criminal business with the Rasmussons or employees of RASMARK. Moreover, P. SEAVERNS made deal with the Government and testified as a Government witness. He was thoroughly examined on direct and cross and no evidence was elicited connecting Mark B. Rasmusson with the inner circle of FLORES or connecting the Rasmussons to participation in any of the FLORES criminal activities. The issues of who were the criminal associates of FLORES were fully

litigated throughout the criminal trial.

(141) Unknown to Mark and Deborah Rasmusson, on or about August 26, 1990 and prepared on September 7, 1990, PERKINS and Immigration Naturalization Service (INS) SA Socorro G. SIMMONS conducted an in-depth interrogation of RASMARK pilot Jerry L. Burnett at approximately 3:40 P.M, (see **Exhibit 13**). Again BURNETT was thorough examined on direct and cross and no evidence of criminal activities was elicited from him. However, the Court did learn during BURNETT's testimony that BURNETT had informed PERKINS of incorrect information attributed to him in one of the DEA-6 reports and that neither PERKINS, or any other member of the DEA OCDETF task force, made any effort to correct the report.

(142) On or about August 27, 1990 and prepared on September 15, 1990, PERKINS and CHAVEZ went to RASMARK at approximately noon and conducted an in-depth interrogation of Deborah Rasmusson and RASMARK's pilot Jim YOUNG. Although PERKINS and CHAVEZ knew Mark and Deborah Rasmusson were under official investigation of the USCS and that the DEA were targeting them as co-conspirators of FLORES, PERKINS and CHAVEZ did not advise Debra Rasmusson of her constitutional rights not to answer the agents' questions, (see **Exhibit 14**). Jim YOUNG also testified as a Government witness and was thoroughly examined on direct and cross, and no evidence of criminal activities was elicited from him connecting the Rasmussons or RASMARK to any criminal activities pertaining to the FLORES organization

(143) On or about August 27, 1990 and prepared on September 1, 1990, PERKINS and CHAVEZ went to Village Inn located at Airway and Montana Avenue at approximately 2:00 P.M. and, by permission of Mark Rasmusson, conducted an in-depth interrogation of one of RASMARK's dispatchers David Chavez, (see **Exhibit 15**). David Chavez also testified as a Government witness and was thoroughly examined on direct and cross, and no evidence was elicited from him connecting the Rasmussons or RASMARK to any criminal activities pertaining to the FLORES organization.

(144) Unknown to Mark and Deborah Rasmusson, on or about August 27, 1990 and prepared on September 18, 1990, PERKINS and CHAVEZ interrogated Susana Zaldivar, former RASMARK employee, at approximately 7:00 P.M. at Denny's Restaurant located at Lomaland Gateway West in El Paso, Texas, (see **Exhibit 16**). Susana Zaldivar testified as Government witness and was thoroughly examined on both direct and cross, and no evidence was elicited from her connecting the Rasmussons or RASMARK to any criminal activities pertaining to the FLORES organization.

(145) Unknown to Mark and Deborah Rasmusson, on or about August 28, 1990 and prepared on September 13, 1990, PERKINS and CHAVEZ went to Apodaca, Jensen and Company, the CPA for the Rasmussons and RASMARK, located at 300 E. Wyoming, Suite A, El Paso, Texas, with Subpoena #M7-90-525 and conduct an in-depth interview of Albert J. Apodaca and Keven L. Jensen pertaining to Mark and Deborah Rasmusson and RASMARK, (see **Exhibit 17**). Albert Apodaca testified as a Government witness and was thoroughly examined on both direct and cross, and no evidence was elicited from him connecting the Rasmussons or RASMARK to any criminal activities pertaining to the FLORES organization. APODACA was thoroughly questioned about receipt of cash, financial reports, reconstruction of invoices and other issues pertaining to the Rasmussons and RASMARK.

(146) However, FROST, on behalf of himself, USCS, and other members of the FTF, included in his two affidavits of November 19, 1993 misinterpretatons, misleading statements and outright fabrications that he attributed to APODACA, and which were uncorroborated in the criminal trial transcript and uncorroborated by any independent evidence from the FTF.

(147) APODOCA disputes in his affidavit certain statements FROST used in the FTF affidavits of November 19, 1993:

(148) (1) That he is a Certified Public Accountant and his office is located at 2507 E. Yandell, El Paso, Texas 79903;

(149) (2) That he has reviewed photocopies of a DEA Form 6, dated September 13, 1990, and excerpts from FROST's affidavit for a search warrant;

(150) (3) In both reports the agents discuss a single $11,000 cash transaction, APODACA had told the agents the money was from several cash transactions. Mark Rasmusson asked APODACA if he should reconstruct the missing invoices related to the $11,000. Mr. Rasmusson did not ask him if he should match the invoices to the amounts the government agents knew about as indicated in the DEA Form 6 and affidavit, "and that is not what I told the agents", said APODACA.

(151) (4) APODACA also states that "I also did not tell the agents I was alarmed by Mark Rasmussons actions, what I did tell them was that I was alarmed by their contacting me. It was not because of anything Mark Rasmusson did. I also told the agents I always knew Mark Rasmusson to be very honest, and that I was not aware of him being involved in any illegal activity. That was not included in either report";

(152) (5) That Deborah Rasmusson gave APODACA a letter stating RASMARK did not accept cash. However, he was never told that by Mark Rasmusson;

(153) (6) That APODACA told the agents that he was familiar with RASMARK's major accounts. He also told them he was not familiar with the Jesus Flores/Vista Remodeling account. However, APODACA said the agents implied Flores/Vista Remodeling was a major account which was not true. Even if Flores/Vista Remodeling had spent $50,000, APODACA said, that would not make them a major account. Instead, Ford Motor and Chrysler were major accounts and their business with RASMARK was close to or in excess of a million dollars a year, said APODACA.

(154) (7) Also, APODACA said Deborah Rasmusson has never made any statements to him about taking cash under the table as

reflected in the DEA report, and that he also never told Arturo Vargas that Deborah Rasmusson admitted not paying taxes on $100,000 of income in 1990 or 1991, as reflected in FROST's affidavit;

(155) (8) That he did require that DEA to give him a subpoena prior to giving them any records; he believes this was done at the recommendation of his attorney, not Mark Rasmusson.

(156) (9) APODACA further states that the Internal Revenue Service did an audit of 1989-1990 income tax returns for RASMARK. This audit resulted in a "no change" or no additional tax due; and,

(157) (10) That he was never shown a copy of the DEA Form 6 regarding his alleged statements until just before Mark Rasmusson's trial in 1990. At that time "I told agent Perkins some of the statements attributed to me were not correct."

(158) FROST, on behalf of himself, USCS, and other members of the FTF alleged in his two affidavits of November 19, 1993 that the Rasmussons were living a lifestyle beyond their financial means. However, APODACA's affidavit states the fact that IRS conducted audits of the Rasmussons and RASMARK during 1989-1990; these audits resulted in "no change" in tax liability and certainly no charges of tax evasion.

(159) FROST, on behalf of himself, USCS, and other members of the FTF certainly could have utilized the appropriate legal process to obtain the tax records of the Rasmussons and Rasmark. They could have subpoenaed the RASMARK's financial records from APODACA; none of these steps were taken to find out the Rasmussons true financial condition, or if they were, the information was intentionally ignored. Even when FROST took the box of RASMARK records form Deborah Rasmusson on May 23,1992 and when through the pretext of getting a warrant to view the contents of the box, neither FROST nor MILLS, SCHROEDER, ACOSTA, HIVICK, HOLLAND, BAKER, KEITH WILCZEWSKI, REAY, LAPPE have an appropriate document analysis done on the financial documents to determine

whether there was any evidence of criminal activity pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion. None of the Defendants have produced evidence of any other source of the Rasmussons' lifestyle or RASMARK's income other than the legitimate charter services that RASMARK sells to the public.

(160) On or about August 29, 1990 and prepared on September 5, 1990, PERKINS and t CHAVEZ went to RASMARK at approximately 1:00 P.M. and interrogated the office manager and returned on the same date to RASMARK at approximately 2:00 P.M. and conducted another in-depth interrogation of Mark and Deborah Rasmusson, without advising them of their constitutional rights not to answer the agents' question; and, they received documents in response to the DEA Subpoena #M7-90-512.

(161) On or about August 29, 1990, DEA SA Jack GELLER, Defendant PERKINS, Defendant LENOX, Defendant MARTINEZ and IRS SA PAYAN debriefed Peter SEAVERNS pertaining to FLORES organization, in the agents report SEAVERNS allegedly made statements pertaining the use of RASMARK by FLORES or his associates and an implied warning to Mark Rasmusson about FLORES' criminal activities, (see **Exhibit 18**). However, P. SEAVERNS testified as a Government witness during the FLORES criminal trial and was thoroughly examined on both direct and cross and no evidence was ever elicited from P. SEAVERNS pertaining to the information in the above DEA-6 report. The issue on whether Mark B. Rasmusson had knowledge of FLORES criminal activities was fully litigated

(162) Unknown to Mark and Deborah Rasmusson, on or about September 19, 1990, PERKINS presented the Jesus FLORES investigation a second time before a Federal Grand Jury in El Paso, Texas in such a manner that the Grand Jury handed down an indictment against Mark B. Rasmusson in Count Nine of a superseding indictment, alleging that he aided and abetted, counseled, induced and procured the commission of the offense of FLORES using or causing to be used an airplane in interstate or foreign commerce, (see **Exhibit 19**) .

(163) Approximately fifty-eight (58) Government witnesses testified during the FLORES criminal in which Mark B. Rasmusson was indicted. Approximately one hundred and nineteen (119) exhibits were admitted into evidence. Defendants LENOX, PERKINS, and MARTINEZ testified extensively; none of these witnesses produced any evidence that ever connected Mark B. Rasmusson, Deborah L. Rasmusson, or RASMARK with any criminal activity pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion.

(164) On or about September 26, 1990 Defendants PERKINS and LENOX contacted Mark B. Rasmusson and his attorney, Richard Esper, in El Paso, Texas. Arrangements were made for RASMUSSON to surrender himself to the agents' custody on September 27, 1990, at approximately 9:00 A.M., at the Federal Court Building in El Paso, Texas, (see **Exhibit 20**).

(165) On September 27, 1990, RASMUSSON surrendered himself and was placed under arrest at the Federal Court building. On that same date, the agents took RASMUSSON before U.S. Magistrate Janet REUSCH for his initial appearance. Bail was set at $10,000.00 which was posted by Debra Rasmusson. The agents processed Mark RASMUSSON (photographs, fingerprints, and DEA-202 Personal History Report) and turned him over to the custody of the El Paso, Texas, U.S. Marshals Service, (see **Exhibit 21**).

(166) On or about October 18, 1990, MARTINEZ and IRS SA PAYAN went to RASMARK, showed their ID to Mark RASMUSSON, told him that they were investigating FLORES in cooperation with the DEA. They asked to see all transaction records with FLORES. They asked how FLORES arranged his charters; they asked about Mark Rasmusson's relationship with P. SEAVERNS and whether SEAVERNS introduced Mark to FLORES; they asked whether Mark was aware of P. SEAVERNS transactions with FLORES; they asked whether Mark or Deborah dispatched the charters for FLORES. M. RASMUSSON told the agents that he had been indicted in this case and that his lawyer told him not to discuss these matters with anyone;

however, the agents continued to ask questions. M. RASMUSSON felt compelled to answer their questions. The agents asked who the pilots were that flew FLORES; they asked if Mark, himself, had flown FLORES; they asked whether Mark had been to FLORES house on Citation; they asked for copies of all invoices pertaining to FLORES, which Mark had his secretary to make copies and gave them to the agents; they asked for flight logs and wanted to know who the pilots were; at this point, Mark, again, told them that he would not answer any more questions without his lawyer and that before he gives any more documents he wanted them to get a subpoena. At which time Defendant MARTINEZ told M. RASMUSSON that "don't worry, I'll get you before the Grand Jury where you can be punished for lying." At no time did either of the agents advise Mark B. Rasmusson of his constitutional rights. The agents then left RASMARK.

(167) PERKINS testified that he and CHAVEZ confirmed the fact that RASMARK was an actual entity with employees, pilots and airplanes; that RASMARK is listed in the telephone book and has an office at Cutter Aviation.

(168) PERKINS further testified that he was aware of the Court's authorized wire interceptions on a number of telephones and none of the numbers was subscribed to Mark Rasmusson or RASMARK; that they intercepted maybe thousands of conversations; that there was one (1) conversation of all those thousands between FLORES and M. RASMUSSON.

(169) P. SEAVERNS testified for the Government pertaining to Form 8300 violations and other details of his dealings with FLORES organization. At no time did the Government attorney ask SEAVERNS any questions pertaining to M. RASMUSSON. (FROST refers to this testimony in his two affidavits of November 19, 1993 as though the testimony was about Mark B. Rasmusson or RASMARK).

(170) PERKINS testified that M. RASMUSSON told him that to the best of his knowledge that FLORES was the only cash paying customer that they had or one of the few cash paying customer;

PERKINS also testified that there is no crime in receiving cash for payment of a charter; that so long as the cash is reported on RASMARK taxes, the Rasmussons can do whatever they want with that cash.

(171) PERKINS testified that at the time on August 23, 1990 when he went to talk to M. RASMUSSON to ask him whether FLORES owned a Cessna 206, PERKINS already knew that in February 1990 a Jesus ZARGOSA, acting for co-conspirator Arturo BERMUDEZ, had purchased the 206, and on May 26, 1990, ZARGOSA paid $10,000 in cash to Tapaco Aircraft Parts and Accessories for repairs on the 206 and that the documents PERKINS seized at the time DEA seized the 206 revealed all of this information to him.

(172) However, Tapaco Aircraft Parts and Accessories was not charged with aiding, abetting, counseling, inducing or procuring the commission of FLORES' criminal activities.

(173) JIM EDWARD YOUNG, a former RASMARK pilot, testified as a Government witness. YOUNG testified that RASMARK did a fairly significant number of charters; that sometimes there were good weeks and sometimes there were bad weeks, just like any other business; that RASMARK was a fairly successful business; that RASMARK was a successful and profitable business, both at the time he started and at the time he left RASMARK.

(174) YOUNG testified that he had been with RASMARK since 1989 and that FLORES was not chartering flights back in 1989 with RASMARK.

(175) YOUNG testified that the Rasmussons never told him to falsify any documents; that as a pilot he was always on the lookout for illegal activity; that he did keep his eyes and ears open; that if he saw anything that was some sort of illegal activity or that the plane was being used to conduct some sort of illegal activity, he would go tell M. RASMUSSON and that he would head straight to law enforcement authorities to tell them.

(176) YOUNG testified that with respect to charters that FLORES took, he never had to go tell Mr. Rasmusson about any type of illegal activities that he suspected going on; that at that time, the 44 Charlie Papa, Lear 24 was worth about $500,000 and the Lear 25 was worth about $700,000; that they are pre-owned, and depending on the condition of airplane, they could be worth more, any where from a half a million dollars to a million dollars; that to his knowledge, Mr. Rasmusson has never subjected his planes that are worth that value to be utilized to commit some crime or further some crime.

(177) YOUNG testified he did not plan a trip to Switzerland for Mr. BERMUDEZ; that he was never involved in that deal; that he was present during an interview with PERKINS on August 27th but he doesn't know about the flight; that he was not to be the pilot on that flight; that he had no idea who was going to be the pilot.

(178) Subsequent to the acquittal of M. RASMUSSON, the DEA did not close its case against M. RASMUSSON and neither did the USCS close their parallel investigations of the Rasmussons and RASMARK. Instead, the USCS supervisors Defendants LAPPE, REAY, and WILCZEWSKI formed the FTF for the purpose of providing another cover under which they could continue their pursuit of the RASMARK assets and the ruin of Mark and Deborah Rasmusson and later Andrew Gantkessy.

(179) Subsequent to the acquittal of M. RASMUSSON, the DEA in conjunction with the USCS and or the USCS Financial Task Force (FTF) continued to investigate Mark and Deborah Rasmusson, RASMARK, and later adding Andrew A. Gantkessy, when they knew they had no independent corroborating facts subsequent to the FLORES criminal trial to connect any of the Plaintiffs with criminal activity pertaining to drug smuggling or money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion.

(180) USCS SA John PETERSON, on behalf of himself and the USCS, as the original case agent, was investigating the Rasmussons

and RASMARK as early as 1987 and continued the USCS investigation against the Plaintiffs after Mark RASMUSSON's acquittal despite not obtaining any independent corroborating evidence of criminal activity pertaining to drug smuggling or money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion. USCS, just as the DEA had earlier with the FLORES investigation and criminal trial, was on a fishing expedition; one way or another they were determined to snare Mark and/or Deborah Rasmusson, RASMARK, and Andrew A. Gantkessy into at the appearance of criminal activity since it became clear none of the Plaintiffs was engaging in actual criminal activities.

(181) PETERSON, on behalf of himself and USCS, did not uncover any information, facts or evidence that any of the Plaintiffs were associated with drug trafficking organizations. There were no law enforcement undercover officers or criminal informants making deals with any of the Plaintiffs pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kick back for the purpose of identifying the alleged criminal associates of the Rasmussons; learning about deals in the making, the inside details of who, what, when, where and how is essential to establishing the existence of criminal activity corroborating any of the Plaintiffs engaging drug smuggling, money laundering deals, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion.

(182) Between the acquittal of Mark B. Rasmusson on or about June 14, 1991 and March of 1992, when FROST took over PETERSON's investigation of the Plaintiffs, no charges had been filed or indictments handed down against any of the Plaintiffs as a result of the USCS' investigation being conducted by PETERSON.

(183) On or about March of 1992, Defendants LAPPE, REAY, WILCZEWSKI, on behalf of the USCS, formed the Financial Task Force (FTF) under the responsibility of the Financial or Currency Group, which dealt with financial investigations that were purely Customs in orientation; those that were joint investigation with other

entities fell under the FTF. The FTF was also supervised by that currency or financial group supervisor. The FTF consisted of the USCS, FBI, IRS, combined with the HIDTA task force of the EPPD and EPSD.

(184) The members of the FTF were USCS: SA LAWRENCE E. FROST, March, 1992; SA LARRY K. BROWN, May, 1993; FRED J. SCHROEDER, January 1993 to February; WALTER J. KING, assigned to the Financial Investigations Group that provides manpower to the FTF--1992-1993; FBI SA JOE L. ACOSTA, March, 1992; IRS SA FONDA HIVICK, April, 1992 through February, 1993; EPSD Officers NEIL BAKER and JERRY KEITH; and EPPD Officers JAMES HOLLAND and unofficially, GEORGE SALAS. The acts and conduct of the individual members or unofficial members accrued to the benefits of the USCS and the FTF in attempting to reach their goal taking the assets of RASMARK. They each acted individually and in concert for the expressed purpose of ruining Mark B. Rasmusson, Deborah L. Rasmusson, RASMARK, and Andrew A. Gantkessy.

(186) The goal of the FTF was to accomplish what the DEA's Special Agents AGUIRRE, PERKINS, LENOX and E.CHAVEZ, and USCS SA PETERSON and SCHROEDER, prior to March of 1992, all failed to do--get all the assets of RASMARK, including its airplanes, for their respective agencies. Andrew A. Gantkessy, unfortunately, became a casualty because he refused to cooperate the FTF in wire tapping and fabricating lies against the Rasmussons and RASMARK.

(187) Defendants LAPPE, REAY, and WILCZEWSKI, and FROST approved the plan to initiate the FTF as a way to continue the USCS unlawful investigation of the Plaintiffs and obtain additional funding sources through getting the investigation approved as an OCDETF investigation or, if that fails, somehow tack it under the umbrella of a more substantial appearing criminal investigation that is either already approved as a OCDETF case, or under some big USCS' operation pertaining to either drug smuggling or money laundering.

(188) Defendants FROST, LAPPE, REAY, AND

WILCZEWSKI prepared a plan and presented it on behalf of either USCS, or the FTF, falsely presenting the Plaintiffs as engaging in money laundering or drug smuggling to the OCDETF Committee. The defendants knew from the beginning they had no nexus to criminal activity involving any of the Plaintiffs. They attempted to connect the Rasmussons and RASMARK as being criminally associated with Guillermo PORTILLO, a Mexican national that the USCS believed was engaged in a large-scale money laundering operation between Mexico and the U. S. However, that plan fell through because the entire business transaction between RASMARK and PORTILLO was legitimate from beginning to ending and completely documented in the Federal Aviation Administration (FAA) official systems of records.

(189) The only connection between Guillermo Portillo and the Rasmussons and RASMARK was a legitimate business transaction that occurred in or about October 1989, when RASMARK agreed to housed PORTILLO's aircraft, N7GP, provide pilots and maintenance all for a reasonable fee and the use of the aircraft when PORTILLO was not using it. These are common arrangements for air jet charter companies to make with private aircraft owners who do not have the facility to housed their aircraft.

(190) The entire business relationship between PORTILLO and RASMARK is fully documented in the FAA records from the beginning to ending: RASMARK obtained a mechanics lien against PORTILLO's aircraft on or about November 1, 1990 for unpaid RASMARK invoices. PORTILLO satisfied the lien by paying his outstanding RASMARK invoices on or about March 8, 1991, at which time RASMARK released its lien and removed PORTILLO's aircraft from its Air Taxi Certificate on file with the FAA, approximately a full year before the FTF was formed.

(191) The FAA records are easily accessible as public records to all of members of the FTF. Defendant FROST, as the case agent knew about it and should have briefed the remaining FTF members; even if FROST failed to inform the FTF members, the entire FTF knew or should have known because PORTILLO was the larger money

laundering organization that they attempted to connect the Rasmussons to as PORTILLO's associates.

(192) Certainly by the time FROST prepared his two affidavits of November 19, 1993 to obtain search warrants for the Rasmusson's residence on Leo Collins and RASMARK, then located at 6805 Boeing Drive, El Paso, Texas, every member of the FTF knew or should have known that they were violating their oath of office and the constitutional rights of the Plaintiffs; yet, they continued with the plan and executed the search warrants.

(193) Another indication that each member of the FTF knew of the bogus nature of their investigation against the Plaintiffs is that in November of 1993 they listed in the search warrant's return "Case = EP2CR90EP0013 - II PORTILLO"; numerous evidence tags placed on the boxes that were used to store RASMARK records has the same case number with PORTILLO on them. In some instances the FTF tried to redact PORTILLO's name, however, they missed some.

(194) Additionally, the "90" in the above case number indicates the PORTILLO's case was underway in at least 1990. Often cases are started several months before the official case number is assigned.

(195) The PORTILLO case did not materialize into the "biggest money laundering case ever" for USCS, in fact, it did not materialize into a money laundering case at all or result in any charges or indictment being brought against PORTILLO. As a result the case became a big embarrassment to the USCS and the investigation was decertified by the OCDETF Committee in or about 1992.

(196) Before the USCS formed the FTF to continue its investigation against the Plaintiffs, they knew they had no criminal activity in which to connect Mark and Deborah Rasmusson or RASMARK. Therefore, the FTF set in motion a plan to develop the criminal connection, or at least an appearance of criminal activity nexus that they needed.

(197) One part of the plan was to disrupt the business relationship between RASMARK and its biggest revenue generating customer, Ford Motor Company. In or about January of 1992, USCS agents, as part of their preliminary phase of initiating the FTF investigation against the Plaintiffs, contacted Ford Motor Company officials from the Body and Assembly Division, Dearborn, Michigan. The Ford officials, Bill DUNMEAD, Transportation Traffic Operations representative, El Paso, Dave BLAIR, Body and Assembly representative, and Dick Mcquaid, another body and Assembly representative, told Andrew A. GANTKESSY that RASMARK was in a lot of trouble with the federal government, and to stop using them for charter. They instructed GANTKESSY to start using Active Aero Charter on or about November of 1991 to January of 1992, Ford Motor Company conducted an audit of its Favesa plant and found out that by Ford using RASMARK for charters Ford saved money and instructed GANTKESSY to continue to use RASMARK.

(199) Another part of the plan consisted of El Paso Police Officer SALAS, on behalf of himself, EPPD, USCS, and the FTF, gaining the trust of Deborah Rasmusson, after the Rasmussons received a mysterious death threatening telephone call at their RASMARK office on or about January 14, 1992. SALAS was one of the officers who responded to the Rasmussons' call to the EPPD. SALAS has been an EPPD officer since 1977; he worked as a relief officer, whatever district he was assigned; and, he worked the district in which the airport area is contained during 1991 and 1992. However, SALAS was not assigned specifically to the airport area; the airport have their own detachment from the EPPD. Therefore, SALAS responding to the Rasmussons' call about the life threatening message on the RASMARK telephone answering system was not at random; he was specifically assigned despite the airport having its own detachment of police officers.

(200) SALAS listened to the death threat on the tape which stated, "the next time I see you mother f----r I'm going to kill you — I'm going to rip your f-----g hear out." Both Mark and Deborah RASMUSSON were extremely disturbed and frightened by this message on their office answering machine. SALAS asked a lot of

questions including whether Mark B. RASMUSSON was involved in any illegal activity where people would be after him to kill him. The RASMUSSONs responded with a "no". SALAS took the tape with him.

(201) After SALAS took the tape, the EPPD did not institute an investigation to determine whose voice was on the tape; even though the Rasmussons had given SALAS their suspicions about Joe SUDOMIR, a FORD employee that they had a rather bitter dispute with over approximately 1.6 million dollars in unpaid RASMARK invoices which resulted in SUDOMIR being relocated to a FORD plant in Michigan.

(202) Shortly after that event, Deborah L. RASMUSSON began to see people peeking in the window when she was alone at home and Mark B. RASMUSSON was out of town. After several of these unnerving incidents, Deborah L. RASMUSSON contacted SALAS to tell him what was happening. SALAS told Deborah L. RASMUSSON that his supervisor had reviewed the tape recording of the threatening telephone call and thought that she needed protection. SALAS, on behalf of himself, EPPD, USCS, and the FTF, then offered to make his services as a bodyguard available to Deborah L. RASMUSSON. SALAS told Deborah L. RASMUSSON his fee was $20.00 hour; SALAS then voluntarily gave Deborah L. RASMUSSON his work number, home number and pager number in case she needed to contact him. During that time Mark B. RASMUSSON was gone out of town on a lot on contract flights.

(203) Despite telling Deborah L. Rasmusson that his supervisor thought the threats were serious and needed protection, no follow up investigation was conducted by the EPPD.

(204) Several days after their first meeting at RASMARK, SALAS quickly made himself appear highly concerned about Deborah L. RASMUSSON's safety by casually stops made these visits quite frequently, often three or four times a week. On one occasion SALAS came by the RASMUSSONs home unannounced; her son Ian let him in; Deborah L. RASMUSSON was in the hot tub when he arrived; she got

out covered only with a towel and went to her bedroom to get dress. Much to her surprise, she found SALAS in his uniform in her bedroom; SALAS took advantage of Deborah L. RASMUSSON's trust and reliance on him for protection and proceeded to seduce her. Thereafter, SALAS continued to use his position and influence by taking Deborah L. RASMUSSON, by herself and on some occasions with her friend Blanca ALEVAR, to parties, riding in his police vehicle, his personal car, and Deborah L. Rasmusson's car on other occasions, to restaurants, and even to his own home when his family was not there.

(205) Shortly after the first seduction by SALAS, he appeared at the RASMARK offices and told Deborah L. RASMUSSON that he had been transferred to the airport and would be able to see a lot more of her. After that SALAS came by the RASMARK offices almost daily; it was during these contacts that SALAS started questioning Deborah L. RASMUSSON about the RASMARK business and her personal relationship with Mark B. RASMUSSON. Deborah L. Rasmusson shared her personal marital problems with SALAS. SALAS also implied to her that Mark B. RASMUSSON was involved in criminal activities was plotting to harm her.

(206) On one occasion SALAS was dropped off at the RASMUSSONs residence while still in EPPD's uniform and on duty. While there he received a call on his pager. SALAS told Deborah L. RASMUSSON that his supervisor did not know he was at her residence, and he would get in trouble if his supervisor found out. SALAS asked if he could borrow Deborah L. RASMUSSON's Mercedes and go to a convenience store and call his supervisor from there. Deborah L. RASMUSSON agreed and loaned him her car, gave to him her entire set of keys, which included house key and keys for their Grand Marquis car.

(207) It was after this occasion of SALAS borrowing her car that Deborah L. Rasmusson began to notice "unusual happenings" in the office and at home; offices were rifled and left in a disarray; the same at home--items of clothing not belong to either Mark or Deborah Rasmusson, or to any of the children, were appearing in Deborah L.

Rasmusson home. Generally, things that messed up Deborah L. Rasmusson's organization, which she prided herself in being well organized. The sudden lack of organization caused her to become suspicious of everyone, including her own husband, Mark B.Rasmusson.

(208) During their affair, SALAS attempted to convince Deborah L. RASMUSSON that Mark B. RASMUSSON was associated with some really bad people who were involved in drugs and money laundering. Deborah L. RASMUSSON told SALAS that Mark B. RASMUSSON was straight, that is not engaging in any criminal activity; however, SALAS insisted Deborah L. RASMUSSON should be afraid of her husband. Deborah L. Rasmusson did begin to wonder whether what SALAS said had any truth to it since he was a police officer and in a position to know about criminal matters and organizations. However, Deborah L. Rasmusson became more confused because she never saw Mark B. Rasmusson do anything that could be related to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion. She had always known her husband to be honest in his business dealings; moreover, she was the primarily handling all of the day-to-day business matters for RASMARK while Mark B. Rasmusson basically tended to keeping the aircraft in the air and supervising the pilots. Moreover, Mark B. Rasmusson was known for his lack of interest in managing the RASMARK business; he much preferred to fly and relax.

(209) SALAS, on behalf of himself, EPPD, USCS and the FTF, continued to use his influence to further plant the idea in Deborah L. RASMUSSON's mind that perhaps her husband, Mark B. RASMUSSON, may be out to get her, or perhaps some of his alleged criminal associates. The more time SALAS spent with her, the more Deborah L. RASMUSSON thought he was sincere and was genuinely concerned about her safety; Deborah L. RASMUSSON was highly frustrated and disappointed in the possibility that her husband might be behind the "peeking in the windows" or office files at RASMARK found in disarray, and her closets and drawers at home in a disarray. Therefore, she began to feel safer with SALAS than with her own

husband, Mark B. Rasmusson whenever he was in town.

(210) Unknown to Mark and Deborah Rasmusson, shortly after the RASMUSSONs hired SALAS, SALAS contacted his friend, a former EPPD officer now working for the FBI, for the alleged purpose of having the Rasmussons checked out. However, this contact resulted in SALAS being contacted by Defendant FROST, on behalf of himself, USCS and the FTF, in or about March of 1992.

(211) Unknown to Mark and Deborah Rasmusson, on the occasion that SALAS talked to FROST in March of 1992, SALAS explained to FROST that he was working as private security and bodyguard for the Rasmussons and that he had not observed the RASMUSSONs participating in any criminal activities; however, SALAS, on behalf of himself, EPPD, USCS and the FTF, agreed to keep FROST informed of the Rasmussons' activities, although he was not officially assigned to the FTF. Clearly, SALAS became an agent for the FTF regardless of whether or not he was assigned to the FTF. Also, the federal task utilizes other federal agents from the lead agency and other agencies without the particular agents being officially assigned to the task force. A case in point is SA Larry BROWN.

(212) SALAS made himself available to Deborah L. RASMUSSON twenty-four hours (24) per day, gave Deborah L. RASMUSSON his work, home and pager numbers for her convenience.

(213) Deborah L. RASMUSSON became paranoid and confused and didn't know what to believe anymore. As a result, Deborah L. RASMUSSON began slowly to abuse alcohol and other drugs.

(214) On or about May 23, 1992, a Saturday morning, Deborah L. RASMUSSON, along with her son Ian Maye from a previous marriage, went to the RASMARK offices, arriving between 10 A.M. and 12:00 noon; when they arrived she noticed a file cabinet opened, and some important RASMARK records in a box. Mark B. RASMUSSON and his son, Mark, Jr. from a previous marriage, had left

for Mexico the previous day. Deborah L. RASMUSSON became suspicious that someone might have broken into the RASMARK offices and could still be in there. She then telephoned SALAS. SALAS arrived in uniform approximately thirty minutes after Deborah L. RASMUSSON called. SALAS told Deborah L. RASMUSSON to get her gun; he also drew his gun and proceeded to check the RASMARK offices.

(215) After SALAS completed his search of the offices, Deborah L. RASMUSSON told him she wanted to file a police report. She also showed him the box of records. SALAS then told her he knew who she needed to talk to. SALAS told Deborah L. RASMUSSON to take the records with her and she and her son got into SALAS' car. SALAS had her son IAN to hunch down in the back seat and for her to hunch down in the front seat. SALAS took them to the Sunwest Bank where he parked and told Deborah L. RASMUSSON to take her pistol out of her purse. SALAS led her to believe that she and her son were in great danger. SALAS left them in the car and went to a Circle K to make a telephone call. Within minutes four or five cars pulled up, and positioned themselves on each side, and on the front and back of SALAS' vehicle.

(216) Unknown to Deborah L. RASMUSSON, SALAS had turned her over to Customs and the FTF, giving the AGENTS their once chance to either convince or coerce Deborah L. Rasmusson in helping their plot to snare Mark B. Rasmusson, or to sign a consent form for search and seizure of both her residence on Leo Collins and the RASMARK offices on 6805 Boeing Drive, with possible forfeiture of all the Rasmussons and RASMARK's assets.

(217) Defendants FROST and MILLS were among the FTF members that escorted SALAS' vehicle to the USCS offices. They took her and Ian to the United States Customs Office at 9400 Viscount. When they got there, SALAS asked Deborah L. RASMUSSON for her gun. When Deborah L. RASMUSSON got out of SALAS' car, there were approximately ten to twelve agents with their guns drawn.

(218) The agents escorted Deborah L. RASMUSSON and her son Ian upstairs to the second floor and SALAS carried the box of records. Upstairs, SALAS placed the box of records on a table and introduced Deborah L. RASMUSSON to LARRY FROST. The other agents came in and introduced themselves to Deborah, also.

(219) Deborah L. RASMUSSON was in a state of shock by this time. Overwhelmed by the situation of being at USCS' office surrounded by so many federal agents appearing to be concerned about her and her son's safety. FROST told Deborah L. RASMUSSON that Mark B. RASMUSSON was plotting to kill her. FROST then told Ian to meet his "new best friend", pointing to Defendant MILLS, who took Ian out of the office. FROST then offered Deborah L. RASMUSSON a beer and had a six pack brought to her which she finished drinking the entire six pack, making her intoxicated. FROST told Deborah L. Rasmusson that he was aware of Deborah L. RASMUSSON having complained to the EPPD about people peeking into her windows at her home.

(220) FROST told Deborah L. RASMUSSON that SALAS was working for him in an undercover capacity and was a plant to protect her from Mark B. RASMUSSON. Deborah L. RASMUSSON became very upset at SALAS and FROST had him to leave the room. Deborah L. RASMUSSON then asked FROST if the mirrors in the room were one-way and if so who were observing. FROST told Deborah L. RASMUSSON that the agents behind the mirror were there to protect her from Mark B. RASMUSSON. FROST told Deborah L. RASMUSSON that he knew what Mark B. RASMUSSON was involved in, but needed for her to fill in the details. FROST also told Deborah L. RASMUSSON that she was going to lose everything, her house and the company RASMARK. FROST stated further that they weren't after her and husband, but after the bigger fish like Sib Abraham, Richard Esper, and Judge Pena. Deborah L. RASMUSSON astounded adamantly told FROST that Mark B. RASMUSSON was not involved in any illegal activity.

(221) FROST next brought in some papers which assigned the

assets of RASMARK to the Government, and a consent form to search RASMARK offices. FROST told Deborah L. RASMUSSON that he was giving her one last chance and that they would place her in the witness protection program. Deborah L. RASMUSSON told FROST that she would not sign the papers, and demanded to see her son. She also told him that she wanted to leave. FROST's, and the other agents, attitude changed dramatically toward Deborah L. Rasmusson and her son. They became verbally and physically abusive, pushing her feet off a coffee table.

(222) Deborah L. Rasmusson then asked FROST if he had recorded her and he said no. Deborah L. RASMUSSON realized that she had been set up by SALAS and the Government to attempt to implicate Mark B. RASMUSSON in some kind of criminal activity even though there was no criminal activity.

(223) Deborah L. RASMUSSON demanded to leave with her son Ian and the box of business records. Before leaving FROST told the other agents as they were leaving that "this never happened." Deborah L. RASMUSSON wanted proof that she had been there so she pulled the fire alarm as she was leaving. FROST did not let Deborah L. RASMUSSON leave the building until the fire alarm had been resolved. Deborah L. Rasmusson.

(224) After Deborah L. RASMUSSON and her son left the Customs Office, they walked down the street on Viscount to the Diamond Shamrock convenience store, located just about a good two blocks from the USCS offices. FROST, MILLS, SCHROEDER, REAY and WILCZEWSKI, and several other agents, followed Deborah L. Rasmusson and her son to the Diamond Shamrock, and when she saw them she asked the store clerk to lock the door an call the police. The clerk called the police. FROST demanded the clerk open the store and showed him his badge. The clerk complied and when FROST came into the building Ian made an effort to protect his mother when FROST demanded the box of records. Ian had originally hidden the box of records near a rock wall, but brought them back into the store when the agents arrived. FROST, on behalf of himself, USCS and the FTF, with

MILLS' participation, forcibly took the box of records from D. RASMUSSON hands without her consent. FROST also grabbed Ian's by the neck, threw him down on the ground and handcuffed him. The agents then placed Ian in the back seat of one of their cars.

(225) D. RASMUSSON used the telephone at Diamond Shamrock to call David Chavez, one of RASMARK's dispatchers. When David Chavez arrived FROST released Ian and Deborah L. Rasmusson, and David Chavez drove Deborah L. RASMUSSON and Ian back to RASMARK, where she got her car and went home.

(226) However, before she left RASMARK, she was highly confused and angry; she didn't know what to believe anymore, whether the things FROST, and the other agents, had said about Mark B. RASMUSSON plotting to kill her was true; she became so angry that took some object and smashed Mark B. RASMUSSON's Porsche that was parked in the hangar. Deborah L. Rasmusson felt ashamed and used by SALAS.

(227) Upon Mark B. Rasmusson's return to El Paso, Deborah L. Rasmusson informed him of the May 23, 1992 incident; Mark B. Rasmusson was highly distressed over the allegations made by FROST, USCS, and other members of the FTF.

(228) Unknown to D. RASMUSSON, Defendants FROST, REAY, WILCZEWSKI, MILLS, and SCHROEDER, on behalf of themselves, USCS and the FTF, with notice of possible forfeiture of all assets. They had SCHROEDER and another agent to go to the RASMARK office to be in position to seize the office when given the okay.

(229) Defendant WILCZEWSKI, as the supervisor and on behalf of himself, USCS and the FTF, called out two additional Special Agents, one of whom was SCHROEDER, to observe and report the activities at the RASMARK business premises in case FROST obtained a consent to search or to prevent possible evidence from being removed or destroyed.

(230) However, the USCS and the FTF's plan fell through when Deborah L. RASMUSSON refused to sign the consent to search form and with possible forfeiture assignment of RASMARK assets.

(231) On this occasion of May 23, 1992, the USCS agents and the FTF questioned D. RASMUSSON extensively. FROST was the primary questioner; however, REAY and WILCZEWSKI supervised, and other wandered in and out, and at varying points participated in FROST's activities.

(232) Defendant MILLS, on behalf of himself, USCS and the FTF, was assigned to hold D. RASMUSSON's son Ian Maye in another office, separated from his mother. MILLS proceeded to question Ian about his relationship with Mark B. RASMUSSON and began suggesting to Ian that Mark B. RASMUSSON wanted to physically harm his mother and him. This untrue revelation caused Ian to become highly upset and confused, as he did not want to believe the bad things MILLS kept telling him about his stepfather.

(233) The entire incident from the time D. RASMUSSON arrived at the Customs Service office to when she was picked up by DAVID CHAVEZ lasted over six hours. During this time Deborah L. RASMUSSON and her son Ian were held against their will. FROST, on behalf of himself, USCS and the FTF, told Deborah L. RASMUSSON that she would be sorry for not cooperating, and that she would lose everything.

(234) After taking the box, known as "2 of 18", from Deborah L. RASMUSSON on May 23, 1992, FROST went through the process of getting a warrant in order to look at the business documents. FROST, on behalf of himself, USCS and the FTF, prepared an affidavit dated May 26, 1992 and knowingly and intentionally made the following false statements:

(1) That the United States Customs Service, Federal Bureau of Investigation and Internal Revenue Service Criminal Investigation Division had obtained evidence that Mark and Deborah Rasmusson

were utilizing their company, RASMARK, as part of a money laundering operation;

(2) That during March of 1992, Deborah Rasmusson told Defendant SALAS that her husband, Mark Rasmusson, was attempting to kill her;

(3) That during April and May of 1992 Deborah Rasmusson told SALAS that she continued to fear for her life and that she felt that the reason that she was in danger was her husband's criminal activity;

(4) That on May 23, 1992 Deborah Rasmusson told SALAS that she had decided she wished to meet with federal agents to provide information relating to the criminal activities of Mark Rasmusson and his associates;

(5) That on May 23, 1992 Deborah Rasmusson stated that she had brought evidentiary records with her to turn over to the FTF agents.

(6) That Deborah Rasmusson stated to FROST that Mark Rasmusson ships approximately one thousand pounds (1,000 pounds) of United States currency out of the United States twice a week on behalf of his criminal associates.

(7) That Deborah Rasmusson stated that this alleged currency is transported by aircraft belonging to RASMARK;

(8) That Deborah Rasmusson stated that this alleged currency is not reported to the U. S. Customs Service as required by law;

(9) That Deborah Rasmusson's son, Ian Maye, stated that he had been telling his mother to get away from Mark Rasmusson for at least five years because Mark Rasmusson is a criminal;

(10) That Deborah Rasmusson became uncooperative when she learned that all assets of RASMARK may be subject to seizure and forfeiture by the U.S. Government;

(11) That Deborah Rasmusson's son, Ian Maye, stated to USCS agents SCHROEDER and MILLS that every thing that the agents needed to convict Mark Rasmusson was in the box that his mother was carrying;

(12) The implication that Deborah Rasmusson and Ian hid the box because it contained evidence of Mark Rasmusson's criminal activities;

(13) That Deborah Rasmusson called FROST at approximately 3:45 a.m. on May 24, 1992 by telephone to apologize for being uncooperative and told FROST that the box contained all the evidence that would be needed to convict Mark Rasmusson of many crimes; and,

(14) That Deborah Rasmusson further stated that she had been uncooperative because the contents of the box can also be used as evidence against her.

(235) Defendant ACOSTA was with FROST when FROST prepared the May 26, 1992 affidavit and on behalf himself, FBI and the FTF, ACOSTA gave his support to the project of preparing the affidavit.

(236) Defendant HIVICK also was in the Customs office at the time FROST prepared the May 26, 1992, and on behalf of herself, IRS, and the FTF, she gave her input and support to the project of preparing the affidavit.

(237) FROST, on behalf himself, USCS and the FTF, presented the May 26, 1992 affidavit to the Magistrate REUSCH, who made a decision to grant the search warrant; however, unknown to the Court, based on false information provided in the affidavit, the Court did not make a detached and neutral decision. FROST and MILLS, on the behalf of themselves, USCS, FBI and other members of the FTF, literally took box from Deborah L. Rasmusson without probable cause, or personal knowledge of what was in the box.

(238) On May 27, 1992 FROST, on behalf of himself, USCS and the FTF, with the agreement and participation of ACOSTA and HIVICK, opened the box of records which had been stolen from Deborah L. RASMUSSON.

(239) There were no documents in that box with the indicia of criminal activity pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, kickback or payoff schemes, or tax evasion. The box simply contained a mixture of normal business records of RASMARK, with perhaps a few personal documents.

(241) Neither FROST, ACOSTA or HIVICK saw any records or documents that were evidence of drug smuggling, money laundering, violations of the Bank Secrecy Act, Mail Fraud, or tax evasion.

(242) Defendant HIVICK has been a special agent for IRS for at least 13 years; she has received training in document analysis pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, Mail Fraud, and tax evasion, she is a certified CPA and her role on the FTF was to identify and evaluate the prosecution potential of individuals suspected of violations of federal law over which the Internal Revenue Service has investigative authority and the planning and conducting of those investigations utilizing various investigative techniques such as interviewing, surveillance and execution of search warrants. Therefore, HIVICK with the necessary expertise to recognize documents that contain evidence of criminal activities as named above saw no such evidence.

(243) HIVICK saw nothing in the box that, in her professional opinion, merit any further analysis by her or any recommendation to IRS criminal division to take further action; nor did she recommend to the FTF to pursue those documents as the basis of any type of criminal prosecution. HIVICK did nothing further with the records or documents from that box. However, HIVICK did not go to the supervisors of the FTF, LAPPE, REAY and WILCZEWSKI, and complain about the FTF continuing a bogus and sham investigation. Instead, HIVICK continued

to participate, even assisting in the execution of the sham affidavit of November 19, 1993 for the RASMARK office coordinate and organize the financial information, relating to possible bank fraud violations, into a prosecutive package. Also, he was to provide technical assistance to the FTF.

(244) Upon reviewing the contents of the box seized on May 23, 1992, ACOSTA only saw normal business records; therefore, he was not able to pursue any type of criminal charges under his area of responsibility on behalf of the FTF or the FBI.

(245) ACOSTA saw nothing in the box that, in his professional opinion, merit any further analysis by him or any recommendation to FBI criminal division to take further action; nor did he recommend to the FTF to pursue those documents as the basis of any type of criminal prosecution. ACOSTA did nothing further with the records or documents from that box. However, ACOSTA did not go to the supervisors of the FBI, FTF, LAPPE, REAY and WILCZEWSKI, and complain about the FTF continuing a bogus and sham investigation. Instead, ACOSTA continued to participate, even assisting in the execution of the sham affidavit of November 19, 1993 for the Rasmusson's residence at 11157 Leo Collins, El Paso, Texas.

(246) Subsequent to May 23, 1992, Defendant WILCZEWSKI, on behalf of himself, USCS and the FTF, approved and or ratified all of the acts of FROST, USCS, and other members of the FTF who participated in the box incident.

(247) Defendant REAY, on behalf of himself, USCS and the FTF, approved and or ratified all of the acts of FROST, USCS, and other members of the FTF who participated in the box incident.

(248) Defendant LAPPE, on behalf of himself, USCS and the FTF, approved and or ratified all of the acts of FROST, USCS, and other members of the FTF who participated in the box incident.

(249) When USCS and the FTF were unsuccessful in getting

Deborah L. RASMUSSON to participate in their plan to destroy M. RASMUSSON and to seize of the assets of RASMARK, they took t RASMUSSON's ex-wife, Lori NELSON, the mother of Mark, Jr., the minor child of M. RASMUSSON, who was approximately eight years old in 1992. FROST told NELSON that Mark B. Rasmusson was engaging in criminal activities, among other inflammatory matters.

(250) In or about early June of 1992, after FROST told NELSON this highly inflammatory and false information about Mark and Deborah RASMUSSON, she was so alarmed that she called her attorney, William COLE, and requested that he call FROST and that he also file a motion for modification of the custody and visitation agreement.

(251) COLE filed an affidavit with his Motion to Modify Visitation in which he detailed the inflammatory allegations made by FROST:

(1) That on June 17, 1992, he spoke with Mr. Frost.

(2) That FROST advised him that there was an ongoing investigation of the Rasmussons by the federal authorities concerning alleged criminal activities relating to criminal charges which had previously been dismissed. FROST stated that the charges had been dismissed during trial because a witness failed to appear and testify.

(3) FROST further told COLE that within the previous 30 days, Debra Rasmusson had come to his office high on controlled substances; and had been using them for many years.

(4) FROST also told COLE that Deborah Rasmusson was carrying a weapon because she thought her husband, Mark Rasmusson, and his friends were trying to kill her because she was a security risk.

(5) FROST told COLE that Debra Rasmusson told him that she always carried a gun because she feared for her life. In fact, it was the local police department, according to FROST, that had referred her to

FROST after she told the police that she was fearful for her life.

(5) Mr. Frost told COLE that Debra Rasmusson had certain books and records in her possession belonging to Mark Rasmusson, which were later confiscated by FROST, the implication being that they pertained to criminal activity.

(6) FROST expressed extreme concern about the safety of Mark Rasmusson, Jr. during visitation in the present atmosphere.

(7) FROST volunteered to come to Douglas County to testify regarding these matters if he was served with a local subpoena.

(252) FROST, On the behalf of himself, USCS and the FTF made the following false disclosures to COLE and NELSON:

(1) The implication that M. RASMUSSON was engaging in criminal activities relating to criminal charges which had previously been dismissed, referring to the bogus DEA case against M. RASMUSSON as aiding and abetting Jesus Flores' organization;

(2) That the charges had been dismissed during trial because a witness failed to appear and testify;

(3) That within the previous 30 days, D. RASMUSSON had come to FROST's office high on controlled substances and had admitted that she was addicted to controlled substances and had been for years;

(4) That D. RASMUSSON was carrying a weapon because she thought her husband, M. RASMUSSON, and his friends were trying to kill her because she was a security risk;

(5) That D. RASMUSSON told FROST that she always carried a gun because she feared for her life;

(6) That D. RASMUSSON told the local police that she was

fearful for her life;

(7) That D. RASMUSSON had certain books and records in her possession belonging to M. RASMUSSON, which were later confiscated by FROST, giving the implication they pertained to criminal activity; and,

(8) The implication that NELSON should have extreme concern about the safety of her son, Mark Rasmusson, Jr. during visitation in the present atmosphere.

(252a) All disclosures made by FROST Attorney COLE, on behalf of himself, USCS, and other members of the FTF, were illegal.

(253) The USCS and the FTF implemented a number of different investigative techniques, such as surveillance of Mark and Deborah RASMUSSON, RASMARK's offices, employees, aircraft and vehicles by placing "lookouts" in USCS computer system at various border locations for the purpose of having the aircraft and other vehicles searched, causing harassment, embarrassment, intimidation, and retaliation against the pilots and Mark and Deborah Rasmusson. Other "lookouts" were placed on RASMARK domestic flights for the RASMARK aircraft to be searched unlawfully, causing harassment, embarrassment, intimidation, and retaliation against the pilots and Mark and Deborah Rasmusson.

(254) USCS and the FTF implemented surveillance of the RASMARK offices, employees, Mark B. RASMUSSON, Deborah L. RASMUSSON, and Andrew A. Gantkessy. Defendants MILLS, SCHROEDER, BROWN, HIVICK, KING, HOLLAND, BAKER and KEITH all, on behalf of themselves, USCS, FBI, IRS, and the FTF, participated in various surveillance activities against the Plaintiffs. As a result, RASMARK aircraft were stop on numerous occasions when the aircraft was flying strictly domestic flights and searched; Mark and Deborah Rasmusson were followed and stakeouts were set up to watch them leave their residences; their residences and offices were entered unlawfully; and other activities to give the general appearance that a

legitimate investigation was being conducted.

(255) On or about September 16, 1992, Defendant MILLS, on behalf of himself, USCS and the FTF, with assistance from CPO Lue Jackson, SA Don Levick, SA Larry Harrell, SA Dante Orate, SA C.W. Moore, SA Cynthia Mandujan, and SA Daniel Ramirez, individually and in concert, alleged certain observations pertaining to surveillance activities of the RASMARK offices, employees Report of Investigation (ROI) that is attached to this complaint as **Exhibit 22**.

(256) Neither MILLS nor any other member of the FTF engaging in the surveillance at 0600hrs through 0930hrs made any observations involving criminal activities pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion.

(257) The alleged FTF observation of two Hispanic males (HMA's) at 1215hrs attempts to implicate M. RASMUSSON, D. RASMUSSON and RASMARK in narcotics smuggling. However, the USCS ROI fails to show the fact that RASMARK is located in Julie's Aircraft Service, Inc. building at 6805 Boeing Drive. Inside Julie's any member of the public could walk in and go to the aircraft parts and supplies section, aircraft repairs section, aircraft engines section, and other section, all without ever entering the RASMARK's offices.

(258) Neither MILLS, USCS, or any other member of the FTF observed where the two HMA's went once they walked through the door nor did any of the agents or officers follow up by going inside the Julie's building to determine where the two men went.

(259) Neither MILLS nor any other member of the FTF for the surveillance at 1300hrs through 1330hrs made any observations involving criminal activities pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion.

(260) Neither MILLS nor any other member of the FTF or

USCS who allegedly observed at 1545hrs Hector BARRERA, a known criminal, departing the RASMARK offices obtained any independent corroborating evidence that Hector BARRERA ever went to the RASMARK offices. Neither did any of the agents obtained any independent corroborating evidence that the male driving the red Mercedes was indeed Hector BARRERA.

(261) Neither MILLS nor any other member violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion.

(262) Neither MILLS nor any other member of the FTF have shown that the surveillance observations beginning at 1605hrs through 1915hrs were involving criminal activities pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion.

(263) Another occasion of "lookout" placed on Mark and Deborah Rasmusson occurred on or about November 10, 1992, when Deborah L. Rasmusson accompanied by Blanca Avelar, left the RASMARK office at about 1:30 P.M.; Deborah L. Rasmusson cashed her pay check in the amount of about $2,000.00, and drove her Mercedes to Juarez, Mexico to collect payment on a customer account. Upon their return, they were harassed, intimidated, embarrassed and retaliated against at the border U. S. Customs and Immigration Inspection Station; they were ordered to the secondary inspection area prior to the agent asking for citizenship or if they had anything to declare. Approximately eight unknown agents joined in the conspiracy of harassment, intimidation, and retaliation. They used a narcotics detector dog on this occasion. This type of harassment, intimidation and retaliation was not unusual because every time that Deborah L. Rasmusson drove to Juarez, her car was always searched excessively upon her return to El Paso.

(264) Continuing their overt acts of harassment, intimidation, and retaliation, immediately the inspectors were abusive, used abusive language, such as "Get out of the car you f-----g bitches", "Shut-up! You

dog face slut". One agent alleged that he found a switch blade knife in the car and shouted "it is our car now!" Deborah L. Rasmusson was handcuffed behind her back and placed in a cell. Two female agents came in and strip searched her. The agent unlaced her top garment and searched her breast area then proceeded to search her crotch area. When the search was completed, the agents left her top unlaced where her undergarments could be seen and one of her breasts partially exposed.

(265) FROST and SA Mills, on behalf of themselves, USCS and the FTF, appeared and came into the cell where Deborah L. Rasmusson was confined. FROST stated "Hey Debbie, you got yourself into a little trouble here". By this time several other agents had gathered at the cell entrance. FROST, SCHROEDER, MILLS and other customs agents attempted without success to get Deborah L. Rasmusson to sign papers that would assign or forfeited her car to the U. S. Customs Service.

(266) An El Paso Police Officer who was later identified as the partner of SALAS, or worked with him occasionally, entered the cell and took Deborah L. Rasmusson out of the cell and placed her in a EPPD police car and transported her to the East Valley Police Substation. Deborah L. Rasmusson remained handcuffed. At the substation, she was searched three or four additional times by both men and women officers and in front of other male officers in a large room. Her top was still open and all the men in the room were leering at her and making snide remarks. Deborah L. Rasmusson felt dehumanized.

(267) Deborah L. Rasmusson was transported to El Paso County Detention Center where she was booked and charged with possession of a prohibited weapon. Unknown to Deborah L. Rasmusson, FROST, MILLS, USCS, and the FTF, had fabricated the finding of .1 grams of marijuana in her car and used that as the basis of seizing her Mercedes, alleging she was transporting an unlawful controlled substance.

(268) On or about December 9, 1992, the El Paso County

Attorney declined to prosecute Deborah L. Rasmusson on the prohibited weapon charge.

(269) At about 8:00 A.M. Deborah L. Rasmusson was released on bond. She tried to recover her car and was told that Customs was keeping the car alleging that it was forfeited. FROST also seized the RASMARK corporate record book and other records that still have not been returned to RASMARK.

(270) In order to have a hearing in court on the forfeiture of her car, Deborah L. Rasmusson was required to post a cash bond in the amount of $3,740.00 which has not been refunded. Deborah L. Rasmusson paid $2,500.00 to hire an attorney in order to get the seizure case into federal court. Deborah L. Rasmusson's car was returned without the legal proceedings taking place.

(271) On or about January 27, 1993 ACOSTA, on behalf of himself, FBI, and the FTF had FBI SA Patrick M. BRESNAHAN, in the Detroit, Michigan FBI's office, to issue an administrative subpoena to the Office of the Secretary, Ford Motor Company World Headquarters, the most important and highest revenue generating customer of RASMARK. The subpoena requested "Any and all shipping records pertaining to shipments of Ford Motor Company goods by Rasmark Jet Charter, Incorporated of El Paso, Texas for the years 1990, 1991 and 1992."

(272) The subpoena also contained the notice in bold and all caps, **PURSUANT TO AN OFFICIAL CRIMINAL INVESTIGATION OF A SUSPECTED FELONY BEING CONDUCTED BY THE FBI, IT IS REQUESTED THAT YOUR COMPANY FURNISH THE REQUESTED INFORMATION. YOU ARE NOT TO DISCLOSE THE EXISTENCE OF THIS REQUEST. ANY SUCH DISCLOSURE COULD OBSTRUCT AND IMPEDE THE INVESTIGATION BEING CONDUCTED AND THEREBY INTERFERE WITH THE ENFORCEMENT OF THE LAW."**

(273) ACOSTA, on behalf of himself, FBI, and the FTF, subpoenaed Ford's records to see what type of business, the volume of business that RASMARK was doing with Ford; and to see what type of money was being generated through Ford.

(274) ACOSTA received the FORD documents in response to the subpoena on or about February or March of 1993.

(275) ACOSTA, on behalf of himself, FBI, USCS, and the FTF, did a brief review of the documents; although ACOSTA wanted to know how much money were actually legitimately being generated by RASMARK from Ford's business, neither ACOSTA, FBI, USCS, or any other member of the FTF, had the appropriate document analysis done in order to obtain the relevant information and corroboration.

(276) ACOSTA forwarded a copy of the documents from Ford Motor Company to USCS for use by the FTF; however, neither FROST, USCS, FBI, or any other member of the FTF, had any analysis done of mail fraud, kickback or payoff schemes, or tax evasion.

(277) Continuing their conspiracy of vengeance, on or about February 12, 1993 Defendants SCHROEDER, HOLLAND, with Customs Auditor Hector BARRERA, interviewed Arturo VARGAS, a former employee of RASMARK, at the Office of Enforcement, El Paso, Texas, and attributed the following false statements to VARGAS:

(1) That VARGAS found RASMARK making outdouble invoices, with the amount on the invoice or the description of the item slightly altered. According to SCHROEDER, VARGAS said that in some cases the number of the invoice was the same, however the amount or the item was changed;

(2) That VARGAS said the RASMUSSONs took in a lot of cash, however, he never saw over $10,000.00 at one time

(3) That on several occasions VARGAS was told by Mark or Deborah RASMUSSON to make out a cash receipt, however he never

saw the cash that corresponded with the receipt;

(4) That the RASMUSSONs kept records on the computer that were not accessible to other RASMARK personnel;

(5) That Albert Apodaca, of the accounting firm Apodaca and Jensen, and RASMARK's accountant, told VARGAS that Deborah L. RASMUSSON admitted not paying taxes on $100,000.00 of income in 1990 or 1991.

(278) The remaining reported statements represent normal business operation and do not indicate any evidence pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion.

(279) VARGAS in his affidavit disputes the above allegations:

(1) That he reviewed excerpts from a USCS report contained in an affidavit for a search warrant by United States Customs Service Agent Larry Frost;

(2) That he never told the agents RASMARK was double invoicing and altering the dollar amounts and cargo on invoices; instead, what he did tell the agents was that in some instances, if a customer or RASMARK lost an invoice, a new invoice would be prepared to replace it. Thus, a second invoice is generated for exactly the same amount. The dollar amount and cargo would not be altered.

(3) That his duties and responsibilities did not include handling cash receipts. Instead what he discussed with the agents was the petty cash fund. He was in charge of the petty cash fund, which was used for miscellaneous office expenses and for the pilots, a normal business procedure. That is what the referenced "cash receipts" related to, not the daily business receipts, according to VARGAS.

(4) The agents also made reference to Mark Rasmusson keeping computer records which were not accessible to the other office

computers/network. VARGAS states the truth is he had no idea what Mr. Rasmusson kept on his computer, and had no reason to ask.

(5) VARGAS has no recollection concerning the agents statement that Albert Apodoca told him Deborah Rasmusson admitted not paying taxes on $100,000 of income in 1990 or 1991. Instead what he did discuss with the agents was a potential discrepancy with the RASMARK accounts receivable. The discrepancy was the result of preparing a replacement or second invoice for a lost or missing invoice. If the original receivable was not deleted from the computer it would cause a discrepancy/increase in the accounts receivable. However, this would not affect income because RASMARK was a cash basis corporation.

(6) It is true that D. RASMUSSON accused VARGAS of being an FBI agent. It is also true that D. RASMUSSON would not give VARGAS access to corporate and personal bank records because she was suspicious of him.

(7)While employed at RASMARK VARGAS never observed or had any reason to believe there was any illegal activity being conducted. He was dismissed from RASMARK by D. RASMUSSON over $20.00 missing from the petty cash fund.

(8) When VARGAS was interviewed he told the agents he had been dismissed.

(9) VARGAS was never shown a copy of the United States Customs service report to verify or correct the statements attributed to him and later used by agent Frost in his affidavit for a search warrant.

(280) On or about March 1, 1993, Defendant HOLLAND, on behalf of himself, EPPD, USCS, and the FTF, obtained a statement from EPPD Officer Clifford GONGAWARE who reportedly conducted surveillance activities of RASMARK in 1992 giving the appearance of suspicious activities taking place at RASMARK, (see **Exhibit 23**).

(281) On or about March 1, 1993, Defendant HOLLAND, on behalf of himself, EPPD, USCS, and the FTF, obtained a statement from EPPD Officer Andrew DeAngelo who reportedly conducted surveillance activities of RASMARK in 1992 giving the appearance of suspicious activities taking place at RASMARK, (see **Exhibit 24**)

(282) Because Mark and Deborah RASMUSSON, RASMARK, or Andrew A. GANTKESSY were not engaging in any type of criminal activity pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion, the federal agents and the FTF were desperate to find some type of nexus between the Plaintiffs and criminal activity that they resorted to having Officer Gongaware and Officer DeAngelo write their reports for alleged occurrences in 1992, where at the time of the alleged occurrences, no EPPD's follow-up was done or any type of independent corroborating evidence was obtained by any of the federal agents or the FTF.

(283) RASMARK load and unload freight at all hours of the night, after all it does advertise to the public as a 24 hour all weather charter service; additionally, passenger and air ambulance's services are 24 hour. RASMARK advertises itself as "Hot Freight Specialists" (meaning freight that must get from point A to point B in the shortest amount of time), "30 Minute Response Time Loading/Off Loading" and "Pickup/Delivery Service". These services account largely for RASMARK's success because RASMARK's employees are out at all hours as required to meet its own standards of service.

(284) On or about March 9, 1993, Defendants FROST and MILLS, on behalf of themselves, USCS, and the FTF, conducted an interview with Gail Beech, owner of Aero Freight of El Paso, a direct competitor, and former business associate, of RASMARK. Majority, if not all, of the information that Gail BEACH told to FROST and MILLS were based on rumors and disinformation that she had heard, mainly from former, disgruntled employees. BEACH told the agents that her information was based largely on rumors.

(285) However, FROST, on behalf of himself, USCS, and the FTF, put following uncorroborated rumors and disinformation into his two affidavits of November 19, 1993:

(1) That Mark RASMUSSON told her that he had purchased his aircraft with money he had inherited from his grandfather who was the inventor of the popsicle stick;

(2) That Gail BEACH stated that the RASMUSSONs were engaged in a "kick back" scheme with Joe SUDOMIR and were currently engaged in such a scheme with Andy GANTKESSY;

(3) That she was told by a former RASMARK pilot, Mark MCALLISTER, that Mark RASMUSSON stated, while under the influence of alcohol, that he (RASMUSSON) keeps large amounts of money in bank(s) in the Cayman Islands;

(4) That BEECH stated her salary from her air freight company has never exceeded $38,000.00 in one year. Gail BEECH stated that although charter and air freight rates can be very high the actual operator profit after all expenses is approximately 10 to 12 percent of operator income.

(286) All the remaining inflammatory rumors and false information in the USCS' official systems of records were not placed in the affidavits of November 19, 1993.

(287) Neither FROST or MILLS, USCS, or any other member of the FTF, obtained any credible independent corroborating evidence of any of the rumors and disinformation that they were told by BEACH; yet they incorporated these rumors and disinformation into the official agency's systems of records to be treated as credible facts. FROST, on behalf of himself, USCS, and the FTF, utilized these rumors and disinformation in his two affidavits of November 19, 1993 to obtain search warrants for Deborah L. RASMUSSON's residence at 11157 Leo Collins, El Paso, Texas and the RASMARK business at 6805 Boeing Drive, El Paso, Texas.

(288) On or about March 15, 1993, Defendants FROST, on behalf of himself, USCS, and the FTF, conducted a telephone interview with Steve THORN; BEACH told FROST that THORN is the brother of one of her business partners and that THORN had information on Mark RASMUSSON and an associate. FROST, on behalf of himself, USCS, and the FTF, placed the following rumors and disinformation into his two affidavits of November 19, 1993:

(1) That Mr. THORN stated that he and his wife were at a wedding reception at the Holiday Inn in Taos, New Mexico during October, 1992. During the course of this event, Mr. THORN met a male subject who allegedly gave his name as Don or Ron JOHNSON (per THORN's recollection);

(2) That "JOHNSON" appeared to be under the influence of alcohol;

(3) That Mr. THORN stated he told "JOHNSON" that members of his (THORN's) family had invested in an air freight company (AERO FREIGHT INC) in the El Paso area after "JOHNSON" had mentioned being associated with RASMARK AIR CHARTER. Mr. THORN stated that "JOHNSON" was obnoxious and stated that RASMARK was going to run all other air charters in El Paso out of business;

(4) That "JOHNSON" said he and Mark RASMUSSON were flying controlled substances and drug money "all over the place" and that DEA is aware of their activities but can't catch them. "JOHNSON repeated that "DEA will never catch us";

(5) That "JOHNSON" spoke and behaved as though he were a major part of the RASMARK company and as though he was big in "the Organization"; and,

(289) That FROST states in his affidavits of November 19, 1993 that based on Mr. THORN's description of "JOHNSON" he believes this person to be RASMUSSON associate Donald Mitchell JOSEPH.

(290) Majority, if not all, of the information that THORN told to FROST was based on a one-time conversation that occurred between THORN and Donald JOSEPH, a former employee of RASMARK, at a wedding reception where THORN states JOSEPH appeared to be under the influence of alcohol, and THORN himself was under the influence of alcohol. Because THORN is the brother of a partner of BEACH, he is in the same position as a direct competitor of RASMARK, with the same bias.

(291) Neither FROST, USCS, or any other member of the FTF, obtained any credible independent corroborating evidence of any of the incriminating statements, rumors and/or disinformation attributed to JOSEPH; yet FROST, on behalf of himself, USCS, and the FTF, incorporated these uncorroborated incriminating statements, rumors and/or disinformation into the USCS official agency's systems of records to be treated as credible facts. FROST, on behalf of himself, USCS, and the FTF, utilized these rumors and/or disinformation in his two affidavits of November 19, 1993 to obtain search warrants for Deborah L. RASMUSSON's residence on 11157 Leo Collins and the RASMARK business at 6805 Boeing Drive.

(292) On or about March 16, 1993, Defendants SCHROEDER and HOLLAND, on behalf of themselves, USCS, and the FTF, conducted an interview with Chris HINES, presently an employee of Gail BEACH, owner of Aero Freight of El Paso, a direct competitor, and former employee, of RASMARK. Majority, if not all, of the information that HINES told to SCHROEDER and HOLLAND was based on misinterpretation of inadequate information by HINES, rumors, and disinformation.

(293) FROST, on behalf of himself, USCS, and the FTF, put the following uncorroborated misinterpretation of inadequate information, rumors and disinformation into his two affidavits of November 19, 1993:

(1) That HINES stated that shortly after he started working for RASMARK Jet Charter, Debra RASMUSSON gave him a check for

$4,000.00 and told him to cash the check and bring the money back to her. When Mr. HINES returned the money to Debra RASMUSSON he asked if the money was a Christmas bonus for all of the employees. Debra RASMUSSON stated that it was not. Debra RASMUSSON further allegedly stated that the money was for a person who had given them a lot of business. Mr. HINES believes the money was going to Andy GANTKESSY, the Ford Motor Company contact used by the Rasmussons;

(2) That on another occasion Debra RASMUSSON gave Mr. HINES a check to cash. In the ledger, Debra RASMUSSON allegedly wrote the notation "Chris's Commission". When HINES questioned Debra RASMUSSON about the check, she stated that the money was not for HINES. Debra RASMUSSON went on to allegedly state that she owed Andy (GANTKESSY) some money, but could not put his name on the check.

(3) That Mr. HINES stated when he took bills or invoices for the Ford account he was told not to give the paper work to anyone other than GANTKESSY. Mr. HINES further stated that GANTKESSY and RASMARK Jet Charter were billing Ford for flights that did not occur.

(294) The remaining HINES statements used by FROST in his affidavits of November 19, 1993 are addressed elsewhere in the complaint.

(295) Neither FROST, SCHROEDER, HOLLAND, USCS, or any other member of the FTF, obtained any credible independent corroborating evidence of any of the incriminating statements, misinterpretations of information, rumors and/or disinformation attributed to HINES; yet FROST, SCHROEDER, HOLLAND, on behalf of themselves, USCS, and the FTF, incorporated these uncorroborated incriminating statements, rumors and/or disinformation into the USCS official agency's systems of records to be treated as credible facts. FROST, on behalf of himself, USCS, and the FTF, utilized these misinterpretation of information, rumors and disinformation in his two affidavits of November 19, 1993 to obtain

search warrants for Deborah L. RASMUSSON's residence on Leo Collins and the RASMARK business at 6805 Boeing Drive.

(296) On or about May 3, 1993 El Paso County Sheriffs Detective Jerry Keith, on behalf of himself, EPSD, USCS, alleges in a USCS Report of Investigation that he retrieved from Deborah Rasmusson's trash lot of male clothing, several sets of keys and items of drug paraphernalia and trace amount of cocaine and heroin on certain items.

(297) However, neither Defendant KEITH, EPSD, USCS, or any other member of the FTF, properly maintain a chain of custody of any of the items allegedly found in Deborah L. Rasmusson's trash. Moreover, neither KEITH, USCS, or any other member of the FTF, followed the El Paso Sanitation Department guidelines as set forth by city ordinance in getting approval for sanitation employees to properly collect the trash, isolate it from other trash, and turn it over to USCS or members of the FTF.

(298) In any instance where USCS or members of the FTF actually had a sanitation employee to retrieve the trash from the cabana attached to the residence, the agent November 19, 1993.

(299) At 12:00 PM on May 3, 1993, Defendant KEITH, on behalf of himself, EPSD USCS and the FTF, established surveillance on the Rasmark Jet Charter Office. Detective Keith observed a white colored pick-up, Texas license CB-1779 depart the business. The vehicle is registered to Gildardo ROSALES, 10245 Whitetail, El Paso, Texas."

(300) Neither Defendants KEITH, EPSD, USCS, or any other member of the FTF, obtain any independent corroborating evidence of the items allegedly found in Deborah L. RASMUSSON's trash to show that the items pertain to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback and payoff schemes or tax evasion.

(301) Moreover, Defendants SCHROEDER, BAKER, KEITH, and HOLLAND, on behalf of themselves, USCS, EPPD, EPSD, and other members of the FTF, failed to maintain a proper chain of custody for any of the items that they alleged came from the trash at the LEO COLLINS residence; they did not obtain written permission from the El Paso Sanitation Department to arrange and permit its employees to collect trash from 11157 Leo Collins and keep it segregated from other trash. Neither did any of the defendants obtain the names of any sanitation workers who allegedly collected and segregated the trash and gave it to the particular agent or agents.

(302) Instead of the defendants following the Sanitation Department guidelines, they simply went onto the Leo Collins property within the curtilage of residence and took the trash from the cabana built onto the residence without a warrant.

(303) However, for the majority of the items, important personal and RASMARK business documents that the Defendants alleged in their affidavits, prepared by FROST, of November 19, 1993 were in the trash were never placed in the trash by either Mark or Deborah Rasmusson, or by anyone on their behalf.

(304) Defendant SCHROEDER, on behalf of himself, KEITH, EPSD, USCS, and other members of the FTF, entered the May 3, 1993 USCS report of investigation into the USCS official agency's systems of records to be treated as credible facts.

(305) On or about June 2, 1993 FROST, SCHROEDER, on behalf of themselves, USCS, ACOSTA, on behalf himself, FBI , HOLLAND, on behalf of himself, EPPD, appeared at GANTKESSY's employment at the Ford Favesa Plant unannounced. The agents harassed and intimidated through interrogation and threats to extract from GANTKESSY, without advising him of his constitutional rights, incriminating statements about his knowledge of Mark and Deborah RASMUSSON and their alleged kickback or payoff schemes.

(306) Defendant SCHROEDER, on behalf of himself,

FROST, ACOSTA, HOLLAND, USCS, FBI, EPPD and other members of the FTF, entered the following Report of Investigation in the USCS agency's official system of records:

(1) "On June 2, 1993, United States Customs Special Agents Lawrence Frost, Fred Schroeder, Larry Brown, Federal Bureau of Investigation Special Agent Joseph Acosta and El Paso Police Department Detective James Holland contacted Andrew GANTKESSY at 15 Leigh Fisher Drive, El Paso, Texas. GANTKESSY is an employee of Favesa (a Mexican subsidiary of Ford Motor Company). GANTKESSY agreed to talk to Agents and was interviewed for a short time about his knowledge and involvement with Debra and Mark RASMUSSON.

(2) GANTKESSY stated that he had received money from Debra and Mark RASMUSSON, however he did not think the money was a pay off. GANTKESSY was told by Debra RASMUSSON that she was giving him the money because she liked him. GANTKESSY further stated that he had gone on several free trips with the RASMUSSONs."

(307) SA Schroeder forced GANTKESSY to come to the USCS Office of Enforcement for a more detailed interview on June 3, 1993 by intimidation and coercion, telling him that if he doesn't he would be arrested.

(308) Because GANTKESSY refused to cooperate with the agents and fabricate information about the RASMUSSONs and RASMARK, the Defendants threatened GANTKESSEY, telling him that he will lose everything at Ford Motor Company.

(309) Defendant SCHROEDER, on behalf of himself, USCS and the other members of the FTF, ordered GANTKESSY to report at the USCS office on Viscount Blvd the next day, June 3, 1993; SCHROEDER told GANTKESSY that if he didn't show up there at the Customs Office, he would be arrested.

(310) GANTKESSY went to the Customs office the next day, June 3, 1993; he was interrogated by Defendants SCHROEDER and ACOSTA, on behalf of themselves, USCS, FBI, and the other members of the FTF without being advised of his constitutional rights.

(311) SCHROEDER, on behalf of himself, ACOSTA, USCS, FBI, and other members of the FTF, entered the following report in the agency's official system of records:

(1) On June 3, 1993, SA Schroeder and Joseph Acosta again interviewed GANTKESSY;

(2) That GANTKESSY stated that Ford Motor Company was looking for a local company to move freight. RASMARK, according to GANTKESSY, had the cheapest rates available at the time and were designated as the primary company by Ford Motor;

(3) That GANTKESSY stated that Ford stopped using RASMARK after some trouble between Debra RASMUSSON and a supervisor at Ford, Joe Sudomir. GANTKESSY stated that Ford is now using Active Area for all freight movements in the El Paso area;

(4) That GANTKESSY stated he had taken money from Debra RASMUSSON, however he did not think it was a bribe or payoff.

(5) GANTKESSY further stated that Debra RASMUSSON had offered him $5,000.000 per charter that he referred to RASMARK, however GANTKESSY refused the offer, stating that he did not make that kind of money and it would look suspicious.

(6) Debra RASMUSSON went on to tell GANTKESSY that she had given an employee of GM, GANTKESSY was not sure about the company, over $100,000.00 for charter work given to RASMARK.

(7) GANTKESSY stated that one week later Debra and Mark RASMUSSON took him to Las Vegas with them. GANTKESSY stated that on this trip Debra RASMUSSON gave him 500.00 in cash and also

money to play the slop machines. The RASMUSSON's paid for all of the expenses involved in the trip. GANTKESSY stated that he accompanied the RASMUSSON's on a total of four trips to Las Vegas, one trip to the Supper Bowel and two other football games in California.

(8) Debra RASMUSSON told GANTKESSY that if anyone ever questioned him about the trips to tell them he had paid for the charter and she would falsify invoices to cover the trips. Debra RASMUSSON also told him not to talk to anyone with out an attorney.

(9) GANTKESSY stated that he received money on several occasions from Debra RASMUSSON, other than on the trips. GANTKESSY stated that Debra RASMUSSON gave him different amounts anywhere from $50.00 to $3,500.00 in cash. GANTKESSY stated that on one of the trips to Las Vegas Mark RASMUSSON gave him $1,200-1,500.00, stating that it was from Debra RASMUSSON. GANTKESSY was not sure however what the total amount that he received was.

(10) GANTKESSY stated that on two occasions Debra RASMUSSON gave him marijuana. The first time was just prior to the first trip to Las Vegas. On the second occasion Debra RASMUSSON gave him an envelope containing money and one cigarette of marijuana.

(11) GANTKESSY stated that Debra RASMUSSON also offered him a percentage of a company she was starting called "NEXT FLIGHT". Debra RASMUSSON stated that the company would be under David CHAVEZ's name in order to qualify for minority status. GANTKESSY stated that he again refused the offer.

(12) GANTKESSY also stated that Debra RASMUSSON made the statement that Mark RASMUSSON had threatened to kill her upon his return from the Cayman Islands.

(312) Defendant SCHROEDER fails to record in the USCS official systems of records that during the interrogation of GANTKESSY, the following events occurred:

(313) That GANTKESSY told the agents that one of the trips he took on RASMARK aircraft he won from a raffle at one of the annual Amigos Air show;

(314) That RASMARK informed its customers that their employees could fly wherever RASMARK, when space is available, at the cost of the current airlines price for a ticket; GANTKESSY went on one trip under this RASMARK's policy;

(315) That any allegations of figures on alleged kickback or payoffs were given to him by the agents; because the interrogation was making him feel sick, he agreed by saying "whatever you say" just to get them to stop questioning him and leave him alone. When the agents mentioned money to Gantkessy, varying amounts, he just said "yes, if you say so." Gantkessy told the agents he wanted a lawyer; they told him "if you want a lawyer we will arrest you."

(316) On June 3, 1993, GANTKESSY was ordered to report to the USCS office on Viscount by Defendant SCHROEDER, on behalf of himself, USCS, ACOSTA, FBI, and other members of the FTF.

(317) Defendants SCHROEDER and ACOSTA, on behalf of themselves, USCS, FBI, and other members of the FTF, interrogated GANTKESSY on June 3, 1993. SCHROEDER and ACOSTA told GANTKESSY that he was in a lot of trouble and that he would lose his job and be arrested because they just have too much evidence against him, Mark and Deborah Rasmusson.

(318) SCHROEDER and ACOSTA asked GANTKESSY many questions, mostly the same questions that they asked on June 2, 1993. SCHROEDER said his boss FROST wanted to put him in jail, but that he SCHROEDER will talk to him if he (GANTKESSY) would cooperate because he seemed like a nice person and they really want to just put Mark and Deborah Rasmusson in jail and out of business.

(319) SCHROEDER and ACOSTA said they will school me as to what to ask and talk about, and that they (Mark and Deborah

Rasmusson) would never know. SCHROEDER and ACOSTA told GANTKESSY that if he cooperated they would call FORD in Dearborn about him losing his job; then SCHROEDER and ACOSTA said "Let's call them (Mark and Deborah Rasmusson) now and get them on tape." They told GANTKESSY not to worry they will tell him what to ask; as Mark or Deborah would answer, they would give him more questions to ask.

(320) GANTKESSY refused to make the call. SCHROEDER and ACOSTA then made threats against him. They told him he would his job and go to jail if he refused to help and wear the wire. GANTKESSY told them that he had to talk to his wife and get back with them. GANTKESSY contacted his attorney, Tony Silva who referred him to another Bernard Panetta. GANTKESSEY told PANETTA what happened and PANETTA advised him not to wear the wire. GANTKESSEY informed SCHROEDER that he would not wear the wire.

(321) SCHROEDER and ACOSTA, on behalf of themselves, USCS, FBI, and other members of the FTF, entered the highly inflammatory statements that all of the agents coerced out of him on June 2, 1993 and June 3, 1993 into the USCS official agency's system of records.

(322) Defendant LAPPE, on behalf of himself, USCS, and the FTF, wrote a highly inflammatory letter to FORD detailing what they termed "irrefutable evidence" of the criminal activities of Mark and Deborah Rasmusson, RASMARK, and Andrew A. Gantkessy, (see **Exhibit 25**).

(323) Subsequent to sending this USCS letter to FORD, Andrew A. Gantkessy lost his job and retirement and RASMARK lost its largest revenue generating customer, its position as their prime charter carrier, and the opportunity to clinch the "Prime Carrier National Contract".

(324) USCS and the FTF task routinely entered into the

agency's official records inflammatory misinterpretations of information, rumors, and disinformation, as set in the above USCS report.

(325) Another instance of the use of surveillance technique of "lookouts" by USCS and the FTF occurred on or about May, 1993, when a RASMARK jet was stopped in Indianapolis, Indiana and the craft was searched without probable cause.

(326) On or about July 26, 1993, SAC LAPPE wrote to a security Investigator at FORD's World headquarters in Dearborn, Michigan. A copy of this letter is attached hereto as **(Exhibit 26)**. LAPPE made numerous unsubstantiated allegations pertaining to Plaintiffs.

(327) On or about August 12, 1993, Ford employee Andrew Gantkessy came to the RASMARK office and showed Mark and Deborah Rasmusson a FAX communication ordering the El Paso Ford Warehouse to cease using RASMARK as a carrier. The order stated that ACTIVE AERO was now designated as FORD's air carrier nation wide. FORD was improperly coerced by the AGENTS into terminating business relations with RASMARK.

(328) On or about August 18, 1993, FROST conducted a meeting with FORD officials PHIL ASIALA, WHQ Security, and TIM POMAVILLE, PTPD Personnel Relations. FROST said the intent of this meeting was an opportunity for FROST to explain the position of USCS in this matter, as it relates to Andrew A. Gantkessy and RASMARK.

(329) FROST further indicated that Gantkessy was deeply involved with the Rasmussons and RASMARK, and described pertinent testimony that implicates Gantkessy in accepting money, air transportation, and other forms of kickbacks from RASMARK. FROST further explained that there are 11 full-time federal agents from other departments within the Federal Government that are assigned on a full time basis to investigating this case. Their investigation centers around

drug trafficking over the border from Mexico to the United States. He indicated that he could not discuss the investigation, nor could he reveal any other details, however, he assured us that Mr. Gantkessy has become a part of the investigation.

(330) FROST reiterated to the FORD officials that the previous position of the government investigation, indicating that although he could not reveal their findings, that he had reviewed the matter with legal counsel. Based upon the advice from Federal lawyers, FROST said they can and will testify as to their knowledge of Gantkessy's activities while employed with FORD.

(331) FROST said although they do not want to jeopardize their ongoing investigation in criminal activities involving RASMARK, he assured the FORD officials that if requested, they (USCS agents) could legally answer questions regarding Gantkessy's activities and testimony during their investigation.

(332) On August 19, 1993, FORD personnel director, Mr. Pomaville and his assistant came to GANTKESSY's office in the warehouse and informed him that he was on immediate suspension with pay. Mr. Pomaville and his assistant packed GANTKESSY's personal items from his desk and escorted GANTKESSY to the warehouse exit. GANTKESSY was ordered not return to the warehouse until the allegations made by Customs against him were investigated and resolved.

(333) On September 24, 1993, FORD officials met with SCHROEDER and HOLLAND. See(**Exhibit 27**). Every statement imputed to GANTKESSY by SCHROEDER is false. SCHROEDER states to the FORD investigator that GANTKESSY cannot take the witness stand and testify. "THESE AGENTS REMINDED US OF ONE VERY IMPORTANT ISSUE. GANTKESSY CANNOT TAKE THE STAND AND TESTIFY ON ANY OF THESE ISSUES IF HE WERE TO BRING A LAWSUIT AT FORD, BECAUSE IT'S A CRIMINAL OFFENSE TO LIE TO FEDERAL AGENTS. IF THE ISSUE GOES TO COURT HE WILL END UP BEING PROSECUTED FOR

FALSIFYING INFORMATION TO THE FEDERAL AUTHORITIES. THEY ARE STILL COOPERATING AND WILLING TO TESTIFY TO GANTKESSY'S PARTICIPATION IN ACTIVITIES OF RASMARK."

(334) On October 4, 1993, GANTKESSY was permanently suspended and forced into early retirement by FORD based on the false and misleading allegations made by FROST, LAPPE, SCHROEDER, HOLLAND, on behalf of themselves, USCS, FBI, IRS, and other members of the FTF, and RASMARK jealous competitors.

(334) In or about January, 1994, GANTKESSY was informed by FORD that his retirement pay would be cut $870.00/mo because FORD stated that GANTKESSY was not entitled to receive the supplemental retirement due to the allegations made against GANTKESSY by U.S. Customs Agents.

(335) On or about March 18, 1994, GANTKESSY was deposed in the case styled Enriquez v. Ford Motor Co. and SUDOMIR, cause no. EP-93-CA-504(B). At the invitation of FORD, FROST was present for the purpose of harassing, intimidating GANTKESSY as to any statements he may make against FORD or Joe Sudomir. GANTKESSY had repeatedly been informed that he was subject to being placed in jail by federal agents if he refused to talk to said agents.

(336) On or about November 22, 1993, FROST, USCS, and other members of the FTF, led a team of about 100 AGENTS and police officers and raided the RASMARK offices at 6805 Boeing and the Rasmusson residence located at 11157 Leo Collins, El Paso, Texas. The RASMARK employees reported that approximately 10-15 agents were searching the aircraft; 10-15 agents were searching the cars, trucks and other ground vehicles; 5-6 agents in each of the five offices going through filing cabinets, boxes, and desks. At the Rasmussons' residence on Leo Collins, there approximately 20-30 agents participating in the search. The AGENTS, removed approximately 40 boxes of records that were essential to the operation of RASMARK from the RASMARK office. Approximately 16 boxes of records were removed from the

Rasmusson's residence. Among the documents seized from the office were supporting documentation for recent charter flights. The companies that chartered the flights require the supporting documents in order for RASMARK to be paid for the charter. Approximately $50,000.00 was lost because the AGENTS had apparently lost the records or refused to return them.

(337) This raid substantially shut RASMARK down for several months which caused RASMARK huge losses in revenue. The affidavits in support of the search warrants were sealed on November 19, 1993 and remained sealed until April 16, 1996.

(338) RASMARK and FORD had been negotiating a contract that would have resulted in RASMARK being FORD's nationwide on call transportation company. Any FORD plant that required jet transportation for cargo would be required to call RASMARK for that service. In late 1992 and early 1993, FORD executives repeatedly stated that FORD's present charter company was not performing satisfactorily. FORD requested that RASMARK make a proposal to FORD for the national carrier contract; in fact, treated RASMARK as the national carrier by dispatching RASMARK instead of Active AERO, their national carrier. While these negations were in progress, RASMARK business relationship. The AGENTs interference caused RASMARK a loss of $55,000,000.00 per year income. In addition, the regular FORD business brought RASMARK income in the amount of about $4,000,000.00 per year which was also lost.

(339) Two search warrants were issued. One for RASMARK and the other for the Rasmusson's residence on Leo Collins. Each warrant was supported by an affidavit by FROST. The affidavit for RASMARK is 22 pages and consists of 115 paragraphs. The affidavit for Leo Collins is 26 pages long and consists of 127 paragraphs. Analysis of each affidavit reveals that neither contains reliable facts that rise to anything more than mere suspicion or agent hunches and unreliable hearsay by RASMARK competitors who are jealous of the business success achieved by RASMARK.

(340) FROST, on behalf of himself, USCS, and the FTF, repeatedly used uncorroborated rumors, innuendoes, misstatements, misinterpretations, and out right fabrications in all three affidavits: May 26, 1992, and the two of November 19, 1993.

(341) The affidavits in their original form do not contain paragraph numbers. For convenience, the paragraphs in each affidavit have been assigned paragraph numbers by Plaintiffs' counsel. Pages 1-10 (paragraphs 1-38) in each affidavit are identical except for minor wording differences in a few paragraphs. The main difference is in the Leo Collins affidavit which contains paragraphs 85, 86, 89, 92, 102-106, and 109-114 which are not in the RASMARK affidavit.

(342) In both the Leo Collins and RASMARK affidavits, FROST states that he has reviewed all of the DEA-6 ROIs (see paragraphs 7-24 in the Leo Collins affidavit) prepared by PERKINS and other agents. FROST then proceeds to use the DEA-6 documents in exactly the same way that DEA used the same DEA-6s before the grand jury that indicted Mark Rasmusson. See paragraphs 46-54 supra.

(343) The allegations in paragraphs 25-34 of the Leo Collins affidavit are made by alleged informants. These informants were found to completely unreliable and the allegations without factual basis, and neither FROST, USCS, or any other member of the FTF, obtained any independent corroborating evidence of statements attributed to informants. Moreover, the statements attributed to the informants are all staled.

(344) The Leo Collins affidavit allegations in paragraphs 35-44 prove Plaintiffs' allegations in paragraphs 66-79 supra.

(345) The Leo Collins affidavit allegation in paragraph 45 proves Plaintiffs' allegation in paragraph 59 supra regarding surveillance of RASMARK offices from the Residency Inn. However, the allegation that suspected drug dealer BARRERA entered the RASMARK office is completely unfounded. At that time, the RASMARK office was in Julies Aviation building which contained offices for several business.

The implication that BARRERA came to see RASMARK is completely unwarranted. The above statement equally applies to paragraph 88 in the Leo Collins affidavit.

(346) The Leo Collins affidavit paragraphs 48-51 confirms Plaintiffs' allegations in paragraphs 84-94 supra.

(347) The Leo Collins affidavit in paragraphs 52-56 imputes allegations to Arturo Vargas a former bookkeeper for RASMARK. Mr. Vargas was fired by RASMARK about a month after he started work. FROST's allegations imputed to Mr. Vargas are completely false.

(348) The Leo Collins affidavit in paragraphs 57-62 contain allegations imputed to EPPD Officer GONGAWARE. Considering that RASMARK's primary customer was FORD and the FORD plants were located in Mexico, it is not unreasonable to assume that on occasion, auto parts would be delivered to the RASMARK hanger by vehicles with Chihuahua plates. Also consider that deadlines for delivery of parts to FORD plants throughout the UNITED STATES was 5:00AM local time for the plant, planes had to be loaded and in the air by 1:00 or 2:00 AM in order to meet production deadlines.

(349) The Leo Collins affidavit paragraphs 63-65 contain allegations imputed to EPPD Officer ANGELO which are not believable on their face. Any EPPD Officer who observed a person carrying a gun near a hotel or a business on a public street does not need permission from his supervisor to arrest that person. FROST's allegations are completely false.

(350) The Leo Collins affidavit paragraphs 67-71 support Plaintiffs' allegations brought against BEACH.

(351) The Leo Collins affidavit paragraphs 71-77 impute to Mr. Steve Thorn allegations against RASMARK and Mark Rasmusson. Consider that Mr. Thorn implies that he has a financial interest in Aero Freight. Mr. Thorn's allegations like all the baseless and slanderous allegations made by BEECH are based on half truths, rumors,

misstatements, misinterpretations, or outright fabrications.

(352) The Leo Collins affidavit paragraphs 78-81 support Plaintiffs' Allegations as to Chris Hines.

(353) The Leo Collins affidavit paragraphs 82-86, 89, 102-106, 109-114 refer to SCHROEDER, EPSD Officers BAKER and KEITH, EPPD Detective HOLLAND, Customs SA BROWN, on behalf of themselves, USCS, and other members of the FTF, allege that documents specified in the above identified affidavit paragraphs were obtained from the trash of the Rasmusson's residence on Leo Collins. The documents referred to in affidavit paragraphs 82-86, 89, 102-106, 109-114 were obtained by the above named agents and officers who covertly entered the Rasmusson residence and removed the documents without a search warrant.

(354) The Leo Collins affidavit in paragraphs 95-100 FROST makes allegations imputed to GANTKESSY. GANTKESSY was threatened with being put in jail if he did not talk to the AGENTS. The AGENTS told GANTKESSY that he could not have an attorney present during interrogation and a host of other threats were made by the AGENTS against GANTKESSY. The AGENTS told GANTKESSY that they would see to it that GANTKESSY would be fired from FORD if GANTKESSY did not say what the AGENTS wanted to hear about RASMARK. FROST's statements in the Leo Collins affidavit imputed to GANTKESSY are false, inaccurate and misleading.

(355) In the Leo Collins affidavit paragraph 116, FROST alleges that Mark Rasmusson "depleted his inheritance before he arrived in El Paso". FROST, HIVICK, MARTINEZ had access to the trust records of both Mark Rasmusson's father and mother (two separate trusts). A vary brief examination of these records reveals that FROST's statement is completely false.

(356) In the Leo Collins affidavit paragraph 116, FROST alleges that Mark Rasmusson "current lifestyle is supported by unknown sources of income". FROST, HIVICK, MARTINEZ had access to the

tax returns of RASMARK and Mark and Deborah Rasmusson which reveal taxable income at a level of $800,000.00 or more. By any standard, this is a lot of spending money. FROST's statement is completely false.

(357) In December, 1993 and in January, 1994, RASMARK office personnel repeatedly contacted FROST requesting records that were required to carry on the business. Mr. Rasmusson wrote a letter dated February 21, 1994 to FROST referencing conversations between RASMARK employee, Mrs. Sanchez, and FROST regarding records that were urgently needed for the year end closing of RASMARK's financial accounting period. In addition, Mr. Rasmusson requested certain maintenance records that were required to be kept by RASMARK per FAA regulation. A large portion of the RASMARK day to day operations were recorded on computer diskettes that were confiscated by FROST and never returned.

(358) However, it was not until June, 1994 that FROST became more cooperative and began to return certain items that Mr. Rasmusson and his employees had been requesting.

(359) On or about April 25, 1995 Deborah L. RASMUSSON, Mark B. RASMUSSON, RASMARK, filed a joint MOTION FOR RETURN OF PROPERTY, Cause Nos.: 93-1240R-01 and 93-1241R-01, to force USCS and the FTF to return over sixty (60) boxes of records seized from RASMARK and the residence of Deborah L. RASMUSSON on or about November 22, 1993.

(360) USCS and the FTF retained custody and control of these aforementioned records and documents continuously since November, 1993, for a period of time in excess of fourteen (14) months. The Government had ample time to review and examine said records and to determine which any of said records they need to retain copies of for any legitimate law enforcement purpose.

(361) As of the date of filing the motion, April 25, 1995, the Government had not filed charges, indicted or prosecuted either MARK

RASMUSSON, DEBORAH RASMUSSON, ANDREW GANTKESSY OR RASMARK or otherwise charged with any criminal offense pertaining to drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion.

(362) United States Assistant Attorney David R. Rosado did not oppose the motion and concurred in the filing of the motion by affixing his signature as indicating "No Contest".

(363) On or about May 2, 1995, Janet Reusch, United States Magistrate Judge, signed and entered an order to the United States Customs Service to release all the seized documents to the Movants.

(364) Despite the fact that the USCS and the FTF since approximately 1987 to present have obtained no independent corroborating evidence of any of the Plaintiffs engaged in or engaging in criminal activity pertaining drug smuggling, money laundering, violations of the Bank Secrecy Act, mail fraud, kickback or payoff schemes, or tax evasion, the USCS, DEA, FBI and IRS continue to the present day their tactics of harassment, intimidation, and retaliation by testifying during their depositions that they are still conducting ongoing investigations, including Grand Jury proceedings, of the Plaintiffs and that they are still continuing to submit a variety of facts to the U. S. Attorney's Office in hope of obtaining an indictment against any or all of the Plaintiffs.

(365) Defendants Carol HALLETT, John E. HENSLEY, George WEISE, Michael LAPPE, Donald REAY, and Michael WILCZEWSKI were aware of Defendants FROST, SCHROEDER, MILLS, KING, BROWN, and PETERSON's propensity to commit constitutional violations of any individual whose assets they wanted to steal by developing a bogus investigation because of the persistent and consistent problems throughout the USCS, including specific problems in the Southwest Region which includes the El Paso Customs Office.

(366) The reason that Hallett, HENSLEY, and WEISE had notice of FROST, MILLS' propensity for causing constitutional

violations is that on or about March 20, 1990, Air Interdiction Officer FROST led a party of twelve (12) officers that planned and carried out a raid against a woman and three small children in a residence located at 501 South Mesquite Street in Carlsbad, NM. The raiding party included FROST, MILLS, Special Agent Stokes and nine other agents. Ten agents had semi-automatic guns and two agents had twelve gauge shotguns. FROST kicked down the front door and the masked and hooded agents in military style uniforms stormed into the house causing extreme fear and emotional trauma by pointing weapons at the mother and her children.

(367) Six hours after the agents seized the house, FROST and the other raid team agents moved all furniture and personal property belonging to the family into the street. The family sued FROST. This raid became the subject of a lawsuit styled **Ward v. U.S. Customs Service,** 17 F.3d 317 (10th Cir.1994). The court found the raid team used EXCESSIVE FORCE and had NO PROBABLE CAUSE for searching the home. FROST prepared affidavits for both the seizure warrant and the search warrant. At the time the raid took place, FROST was assigned to the Customs RAC office in Albuquerque, NM. On or about July, 1991, FROST was reassigned from the Customs RAC Office to the Customs SAC Office in El Paso. MILLS was reassigned from the Albuquerque RAC office to the El Paso Customs SAC Office sometime between July, 1991 and 1992.

(368) There is notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that early in 1990, Customs Commissioner, Carol HALLETT received 30 letters from Customs agents in the Customs area known as Southwest Region which includes Texas and New Mexico detailing complaints against Customs managers who engaged in transfer of officers as punishment, threats against special agents for complaining about Customs managers, harassment, ridicule, denial of funds for viable cases, and intimidation, lies about individuals, violations of law and agency regulations.

(369) Further notice and knowledge on the part of Defendants

WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that late in 1990, Commissioner Carol HALLETT and other Customs executive managers were concerned about persistent allegations in the press of widespread systemic corruption in the Southwest Region. Commissioner HALLETT created a "think tank" group at Customs that met daily to work on this problem. The think tank consisted of Mr. Michael Lane, Ms. Spero and others of considerable stature in the Customs Service trying to determine what the problems were. Commissioner HALLETT did not believe that the problems in Customs were as large as they turned out to be. Commissioner HALLETT admitted that Customs has serious problems in mismanagement problems in southwest Texas.

(370) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on June 3, 1991, Commissioner of Customs, Carol HALLETT, convened a Blue Ribbon Panel of senior federal government executive managers and requested a full and complete examination of allegations of corruption and mismanagement in the Southwest Customs Region. August, 1991, the Blue Ribbon Panel completed its investigation and submitted its report on Integrity and Management issues of the United States Customs Service. It should be noted that Panel member David knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on or about August 8, 1990, FBI Director William Sessions admitted that reporters were misled by Defendant Michael Lappe during an Albuquerque news conference on June 22, 1990 regarding facts pertaining to the seizure of 1600 pounds of Colombian cocaine.

(371) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on or about July 29, 1991, SAC LAPPE ordered the termination of a previously viable narcotics smuggling investigation and enforcement activity.

(372) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI,

in that on or about August 13, 1991, GS Olson complained to Southwest Region Commissioner for Enforcement, Jerry Padolino regarding Olson's claims of abuse of authority by SAC Lappe. Olson further advised that he intended to contact Senator Domenici regarding facts that SAC Lappe lied about to the Senator. Mr. Padolino advised that he had brought to the attention of Assistant Defendant HENSLEY the lies SAC Lappe told to Senator Domenici. Mr. Padolino advised Olson that he should report the abuse of authority by Lappe via the whistleblower program.

(373) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on or about August 25, 1991, GS Olson anticipated that Customs management in particular SAC Lappe would take retaliatory action where on August 26, 1991, SAC Lappe had become aware that GS Olson was making allegations against Lappe. Lappe wanted Olson to tell him who the whistle blowers were so Lappe "could wring their necks". On or about July 1992, GS Olson filed a complaint regarding retaliation by SAC Lappe with the Office of Special Counsel.

(374) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, HALLETT, notified all supervisors and Managers are to comply with the Whistleblower Protection Act of 1989. Complaints of violation of the law, rule, regulation, gross mismanagement, gross waste of funds, abuse of authority, danger to public health or safety. Employees have a right to make such disclosures to Office of Special Counsel, Inspector General, or Assistant Commissioner, Office of Internal Affairs, who are designated to receive disclosures.

(375) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that On or about October 15, 1991, GS Olson wrote to U. S. Customs Commissioner Carol HALLETT imploring her to examine the El Paso District and not limit the blue-ribbon panel to the San Antonio SAC office case studies.

(378) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that by letter dated July 23, 1992, GS Olson wrote to Office of Special Counsel regarding OSC case MA-91-1483 to report prohibited personnel practice alleging reprisal for whistleblowing including documenting 13 allegations.

(379) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that by letter dated October 25, 1991, Senator Domenici wrote to advise GS Olson that his complaints regarding SAC LAPPE were referred to Commissioner HALLETT to look into the matter and give an unbiased view of the situation.

(380) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on March 26, 27 and on April 1, 1992, The Commerce, Consumer and Monetary Affairs Committee of the Committee on Government Operations House of Representatives One Hundred Second Congress Second Session held hearings on SERIOUS MISMANAGEMENT AND MISCONDUCT IN THE TREASURY DEPARTMENT, CUSTOMS SERVICE, AND OTHER FEDERAL AGENCIES AND THE ADEQUACY OF EFFORTS TO HOLD AGENCY OFFICIALS ACCOUNTABLE. ("HEARING")

(381) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on March 27, 1992, Southwest Region Customs Special Agent Jim Dukes testified at the HEARING. Agent Dukes testified that he was a whistleblower who stated that he did not believe that Customs has taken any of the action recommended by the Blue Ribbon Panel. Customs hopes to weather the storm and then have business as usual after the tempest passed.

(382) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on March 27, 1992, former Southwest Region Customs Special

Agent Thomas Grieve testified at the HEARING. Mr. Grieve stated that the SAC in the San Antonio Office was operating as though he was not answerable to anyone. He removed managers and replaced them without following any Civil Service regulation. ASAC Michael Lappe was summarily dismissed from his RAC o as the SAC. The mismanagement, misconduct and criminal acts that are presented are real. they are no less so because they are being presented to you by people that are not in favor with the U. S. Customs Service.

(383) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on March 27, 1992, Southwest Region Special Agent Ruiz testified at the HEARING that when he entered the Customs Service, he pledged loyalty to the Constitution of the United States. He has since learned that loyalty to one's supervisors is in Customs more important. Customs management cannot be trusted even to be truthful and honest in its normal course of daily activity. Management has no regard for truth and is willing to lie both officially and unofficially. Office of Enforcement management (OE) fears not for there are no consequences for lying because the OE understands that the full resources of the Federal Government will be used to protect them against any and all of their enemies of this Nation or not. How trusting can the courts be when the very leaders of these officers are willing as a matter course to lie. Managers are willing to perjure themselves in our courts and solicit, allow, and require other officers and members of our profession to lie and perjure themselves in court. Is a citizen really free when the letter and the spirit of the law are in the hands of liars and con men?

(384) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on March 27, 1992, Southwest Region Special Agent Herbert Hailes testified at the HEARING. In April, 1990, a management team "strongly solicited" employee comments for Regional Commissioner James Piatt. Thirty (30) letters were given, criticizing management, detailing improper promotional practices, improper personnel actions, disciplinary travel details, transfers with prejudice, use of public office for private gain, lack of prompt attention to the 30 letters caused

pervasive concern that there had been a coverup. Agent Hailes wrote to Carol HALLETT. He was chastised for writhing her and threatened with transfer and/or removal from government service. Threats, harassment, and retaliation increased due to my cooperation with the subcommittee.

(385) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that the HEARINGS established that Treasury OIG and Customs Internal Affairs were mere arms of management in which OIG and IA investigations were biased and compromised by the very management they investigated.

(386) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on or about September 2, 1992, GS Olson wrote to Congressman J. J. Pickle, Chairman, Subcommittee on Oversight regarding claims of retaliation, abuse of power, mismanagement, illegal use of undercover funds, misuse of government vehicle, and other claims of illegal acts.

(387) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on August 24, 1992, attorney Wales wrote Special Agent James Tighe of the Office of the Inspector General regarding claims on behalf of Agent James McCarthy arising out of misconduct, malfeasance in office and possible legal wrongdoing by SAC LAPPE and other Customs agents and personnel under SAC LAPPE's command.

(388) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on or about December 11, 1992, GS Olson wrote to Mr. Robert Warren, Associate Commissioner Office of Organizational Effectiveness, Headquarters, U. S. Customs alleging retaliation, by investigator Vincent Russell, Suppression of reports of misconduct by El Paso SAC committed by Customs Internal Affairs, retaliation against Agent Eric Andreucci general investigations (funds from Operation Transwestern, Operation Red Chilli, and Operation Cavern).

(389) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that on or about November 12, 1992, by Affidavit GS Olson wrote to Mr. Reukauf in the Office of Special Counsel alleging misconduct, retaliation, etc., noting that Assistant Commissioner Enforcement John HENSLEY was notified of the allegations against LAPPE and has taken no corrective action.

(390) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that in 1985, Customs Headquarters made a decision to stop the independent management inspection program that reviewed all of the regions and the SAC/RAC offices. This decision weakened the importance of management systems for day-to-day operations because Customs Senior management had no oversight reviews on how well front line managers were managing. **(Blue Ribbon Panel-20 (BRP))** No managers in the region or the SAC offices accepted responsibility or accountability. Many of the agents in the office of enforcement did not accept supervision readily. At the same time supervisors did not know how to supervise effectively. **(BRP 24)**.

(391) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that the Panel found personnel at every level in the Southwest Office of enforcement neither accept responsibility for managerial deficiencies nor are held accountable for their actions. The absence of a clear line of authority contributes to the problem. First line supervisors in the Southwest Region are inexperienced and lack proper training. **(BRP CONCLUSIONS P.16 FINDING 1 AND 8)**

(392) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that Customs agents operating in the Southwest border need special attention to unique training requirements, technical law enforcement skills, Spanish language proficiency, emphasis on increased vulnerability concerns, and rigid adherence to constitutional and ethical standards. **(BRP finding (1) p.24)**

(393) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that Congressman Martinez observed that individual Customs officers and Immigration officers at the border are prone to, after a while getting into things they're not supposed to get into. Treating people in a bad way, almost as if they are totally insignificant bugs that they can, at will, squash and step on and treat badly. (**BRP at 47**).

(394) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that confidential sources of information are promised a percentage of the assets seized from drug violators and large sums of money are routinely made-53) Part of the **OCDETF** application contains a list of the assets that the Customs Service sought to seize from RASMARK and other Plaintiffs. (**BRP 54**). Allegations of corruption brought against any Customs agent by another agent are met with Customs contempt for anyone who dared to blow the whistle on another agent. (**BRP 55-56**).

(395) Further notice and knowledge on the part of Defendants WEISE, HALLETT, HENSLEY, LAPPE, REAY, and WILCZEWSKI, in that based on experience working with Customs Service, it seems apparent that the management of Customs is more concerned with covering up or denying the problems than dealing with them. It appears as though Customs management is more concerned with Elysian management than reality management, putting up a good front as the interior rots away. (**BRP 56**). Customs management uses its power to defeat the field agents's efforts. (**BRP 56**). Customs Agents poor performance often results in incompetent agents getting cash awards from Customs Service management. (**BRP 57**) Typical investigative technique used by Customs is to build a list of suspects from auto license plates of cars parked in a parking lot of business owned by a target. (**BRP 52**). (Note that less than mere association with the target is sufficient for Customs to infer criminal activity as where Customs alleged that Mark Rasmusson did business with an associate of Portillo which was sufficient without more to bring the full investigative resources of Customs against Plaintiffs.)

(396) Each and every Defendant in the present case before the Court knew from the beginning of the investigation of MARK B. RASMUSSON, DEBORAH L. RASMUSSON, RASMARK JET CHARTER, INC., AND ANDREW A. GANTKESSY that their investigation against any of the Plaintiffs was a bogus and sham investigation, whether it before 1990, between 1991 and March of 1992, or from March of 1992 to the present.

COUNT I
FIRST CAUSE OF ACTION

CONSPIRACY TO DEPRIVE PLAINTIFFS OF THEIR RIGHTS PROTECTED BY THE FIRST, FOURTH, FIFTH AND FOURTEENTH AMENDMENTS AND COVER UP OF CONSPIRACY

(397) For their first cause of action against **LENOX, SCHROEDER, WILCZEWSKI, FROST, MILLS, REAY, LAPPE, KING, BROWN, PERKINS, CHAVEZ, AGUIRRE, HIVICK, MARTINEZ, ACOSTA, SALAS, HOLLAND, BAKER, KEITH,**

PLAINTIFFS STATE:

(398) At all times relevant to this lawsuit, **LENOX, SCHROEDER, WILCZEWSKI, FROST, MILLS, REAY, LAPPE, KING, BROWN, PERKINS, CHAVEZ, AGUIRRE, HIVICK, MARTINEZ, AND ACOSTA,** were acting individually and in concert under color of their federal authority, federal laws, statutes, regulations, policies, customs or usages of the USCS, FBI, IRS, AND DEA and they violated Plaintiffs' rights, privileges and immunities secured to Plaintiffs by the First, Fourth and Fifth Amendments to the Constitution of the United States, and other federal law, and, individually and in concert, in cover up of their conspiratorial acts. This cause of action is brought against them pursuant to the Bivens Doctrine.

(399) At all times relevant to this lawsuit, SALAS, HOLLAND, BAKER, AND KEITH were acting in their individual and

official capacity as police officers, individually and in concert under color of the laws, statutes, ordinances, regulations, policies, customs or usages of the State of Texas, County of El Paso, and the City of El Paso and they violated Plaintiffs' rights, privileges and immunities secured to Plaintiffs by the First, Fourth, and/or Fourteenth Amendments to the Constitution of the United State, and, individually and in concert, in cover up of their conspiratorial acts . This cause of action is brought against them pursuant to 42 U.S.C. § 1983.

(400) Defendants LENOX, WILCZEWSKI and SCHROEDER, joined the conspiracy during the period 1987 and 1990. Defendants PERKINS, CHAVEZ, MARTINEZ and AGUIRRE joined the conspiracy during the period 1989 to 1991. Defendants REAY, LAPPE, HENSLEY and HALLETT joined the conspiracy during the period 1990 to 1992. Defendants BROWN, HIVICK, FROST, MILLS, ACOSTA, SALAS, BAKER, HOLLAND, and KEITH joined the conspiracy between 1991 and 1993.

DEFENDANTS VIOLATION OF PLAINTIFFS' RIGHTS PROTECTED BY THE FOURTH, FIFTH AND/OR FOURTEENTH AMENDMENTS AND COVER UP OF THEIR CONSPIRATORIAL ACTS

(401) Defendants individually and in concert engaged in a pattern of harassment, intimidation, coercion, and retaliation against Plaintiffs as part of an over all conspiracy to steal the assets of Mark and Deborah Rasmusson through the forfeiture process. The pattern of harassment, retaliation, intimidation by Defendants against Plaintiffs began in 1987 and continues uninterrupted to today. Defendants extended this pattern of intimidation, harassment, and retaliation to Plaintiffs' friends, customers, business associates, and employees. Plaintiffs' good name, reputation, and business goodwill was destroyed by Defendants' oral and written communications in which Defendants stigmatized Plaintiffs as drug dealers, money launders, and major criminals. Defendants communication of completely false and fabricated facts to The Ford Motor Company violated Plaintiffs' due process and equal protection rights protected by the Fifth Amendment

and/or Fourteenth Amendment, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

(402) Defendants actions, individually and in concert, coerced The Ford Motor Company to terminate its business relationship with Plaintiffs Mark B. Rasmusson, Deborah L. Rasmusson, RASMARK. Defendants actions caused The Ford Motor Company to terminate hiring Mark B. Rasmusson and Deborah L. Rasmusson, and RASMARK as its primary air transportation carrier a position Mark B. Rasmusson, Deborah L. Rasmusson, and RASMARK held for over two years prior to the coercive tactics used by Defendants in falsely accusing Plaintiffs of engaging in illegal and criminal activity all of which was completely false. Defendants actions violated Plaintiffs Mark and Deborah Rasmusson's Fifth and/or Fourteenth Amendments liberty and/or property interest in pursuing common occupations without due process of law, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

(403) Defendants, individually and in concert, caused the Ford Motor Company to terminate its employment of Andrew A. Gantkessy causing Andrew A. Gantkessy to loose his job which he had held for 27 years by falsely accusing Plaintiff Gantkessy of engaging in kickbacks or payoffs schemes and in other illegal and criminal activity with the Rasmussons and RASMARK all of which was defamatory and completely false and stigmatized GANTKESSY. Defendants actions violated Plaintiff Gantkessy's Fifth and/or Fourteenth Amendment liberty and/or property interest in pursuing a common occupation without due process of law, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

(404) In the period 1987 through 1997, it was clearly established that Plaintiffs had a constitutionally protected liberty and/or property interest in pursuing common occupations.

(405) By this reference, Plaintiffs incorporate each and every allegation and averment contained in Paragraphs 1-XXX [1-396]as though fully set forth in Plaintiffs' FIRST CAUSE OF ACTION.

(406) In or about 1987, Customs employees, individually and in concert, initiated harassment actions against Plaintiffs. Customs inspectors and enforcement agents caused 1-2 hour delays, strip searched passengers and crew members without probable cause or reasonable suspicion, disassembled portions of the aircraft without probable cause or reasonable suspicion, rummaged through baggage, spilled liquids on aircraft carpeting, and treated passengers and crew members as if they were despicable insects, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

VIOLATION OF PLAINTIFF'S FIRST AMENDMENT RIGHTS AND COVER UP OF CONSPIRATORIAL ACTS

(407) After the complaint committee had its first meeting on or about May 2, 1989, and 30 or more pilots and carriers led by Mark B. Rasmusson submitted their individual and collective complaints to Customs managers Mack, Nowak, and Robles the level of intensity of harassment and retaliation against Mark and Deborah Rasmusson and Rasmark Jet Charter , Inc. increased to an intolerable point. As a last resort, Mark and Deborah Rasmusson wrote to Senator Kennedy regarding the insidious and disparate treatment by Customs. These complaints came to the attention of Acting Customs Commissioner Lane in October, 1989 and then to Commissioner Hallett in November, 1989.

(408) In the period 1987 through 1997, it was clearly established that Plaintiffs had a constitutional right to be free from retaliation, harassment, and intimidation for exercising their protected free speech pursuant to the provisions of the First Amendment.

(409) Commissioner Hallett created a "Think Tank" to deal with complaints on a daily basis. HALLETT had major problems of corruption, dereliction of duty, theft, mismanagement, poor managers

and several scandals were in progress by mid 1990. In order to satisfy the press and the public that she was taking action to clean up the mess, she created the Blue Ribbon Panel whose job was to investigate and offer solutions which she as Commissioner would implement. It was in this period of public scandal that Mark and Deborah Rasmusson's names came to HALLETT's attention. However, virtually none of the Blue Ribbon Panel recommendations were put into effect and Customs remains to this day as an agency with no accountability for illegal or mismanagement acts.

(410) Defendants, individually and in concert, singled out Mark and Debra Rasmusson and RASMARK and treated them differently than any other air carrier or other persons or business similarly situated in violation of their right to equal protection of the law as provided in the Fifth Amendment and/or Fourteenth Amendments, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

(411) The acts and omissions of Defendants **LENOX, SCHROEDER, WILCZEWSKI,** individually and in concert, with coconspirators Paul Neely, Belen Robles, William Nowak, and Mike Mack, deprived Mark B. Rasmusson, Deborah L. Rasmusson and Rasmark Jet Charter, Inc., and other pilots (not named as plaintiffs) of their right to be free from harassment, intimidation, and retaliation, for exercising their right to free speech and free association to organize pilots as a complaint group to protest what they perceived as Customs'"Nazi Gestapo" style treatment accorded Plaintiffs each time Plaintiffs passed through Customs inspection at Port of Entries in the United States, Mexico, and Canada. Defendants LENOX, SCHROEDER, and WILCZEWSKI, individually and in concert, either personally or caused others to act on their behalf to deprive Mark B. Rasmusson, Deborah L. Rasmusson and Rasmark Jet Charter, Inc., of their clearly established right to free speech, due process, and equal protection rights under the First and Fifth and/or Fourteenth Amendments respectively, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or

about 1987 to the present.

(412) Defendants PERKINS, CHAVEZ, AGUIRRE, and Special Agent Paul Neely and Defendant SCHROEDER, individually and in concert, joined the Count I conspiracy sometime between 1987 and 1989.

(413) During the period between 1988 and 1989, RASMARK and all the Jet Charter carriers' pilots were experiencing a high level of harassment by Customs officials. In 1989 Mark Rasmusson organized a "Complaint Commission" consisting of 30 professional pilots in the El Paso area. The Complaint Commission held a meeting of pilots and carriers on May 2, 1989, in the hanger of Southwest Air Rangers. Seventeen pilots and carriers signed in for meeting. At least six others attended but refused to put their name on the sign in sheet for fear of increased harassment or retaliation for complaining about the egregious treatment accorded pilots and carriers in the El Paso area by Customs agents and inspectors.

(414) After Customs seized all or the RASMARK records, documents and computer software on November 22, 1993, Defendant FROST refused to return items that were crucial to the running of the RASMARK business. This refusal to cooperate by FROST, was in further harassment, intimidation and retaliation against Plaintiffs in violation of their protected and well established rights pursuant to the First, Fifth and/or Fourteenth Amendments, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

COUNT II
SECOND CAUSE OF ACTION

FEDERAL AGENTS CREATED BOGUS REPORTS OF INVESTIGATION IN VIOLATION OF PLAINTIFFS' FIFTH AMENDMENTS RIGHTS AND COVER UP OF CONSPIRATORIAL ACTS

(415) For their second cause of action against **PERKINS, LENOX, CHAVEZ, AGUIRRE, SCHROEDER, AND MARTINEZ,** individually and in concert, violated Plaintiffs clearly established equal protection and due process rights protected Fifth Amendment,

PLAINTIFFS STATE:

(416) At all times relevant to this lawsuit, **PERKINS, LENOX, CHAVEZ, AGUIRRE, SCHROEDER, AND MARTINEZ,** were acting under color of their federal authority, federal laws, statutes, regulations, policies, customs or usages of the DEA, USCS, IRS. They, individually and in concert, violated Plaintiffs' rights, privileges and immunities secured to Plaintiffs by the Fifth Amendment, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present. This cause of action is brought against them pursuant to the Bivens Doctrine.

(417) By this reference, Plaintiffs incorporate each and every allegation and averment contained in Paragraphs 1-396 as though fully set forth in Plaintiffs' SECOND CAUSE OF ACTION.

(418) PERKINS, with the approval and/or acquiescence of AGUIRRE, created bogus DEA-6 ROI'S in which he deliberately placed false information imputing illegal conduct to RASMARK, Mark and Deborah Rasmusson. The false, bogus, DEA-6 ROI's in question are described in foregoing paragraphs of the complaint.

(419) PERKINS, LENOX, CHAVEZ, and AGUIRRE represented DEA, USCS SPECIAL AGENT PAUL NEELY (not a defendant) Defendant SCHROEDER represented USCS, MARTINEZ represented IRS, EPPD, EPSD, and DPS were partners with DEA, USCS, FBI, INS, IRS, individually and in concert, as members of the DEA OCDETF that was organized and constructed to investigate Flores and Mark Rasmusson. The goal of the OCDETF PARTNERSHIP was to obtain a share of the money and property seized from Flores and from the Rasmussons. Therefore, all the actions by each partner and/or the

partner's representative officers or agents assigned to the DEA OCDETF acted individually and in concert on behalf of the other partners or officers or agents.

(420) On behalf of DEA, the OCDETF PARTNERSHIP and himself, PERKINS committed perjury on September 19, 1990, when he testified under oath before a federal grand jury and by placing into evidence his bogus DEA-6 ROI's containing the false facts and misleading information in his ROI's PERKINS created. PERKINS acts subverted the fact finding duty of the grand jury process. In August and in September, 1990, it was clearly established law that commission of perjury in grand jury testimony and perjury in trial testimony was then and is now a violation of rights protected by the Fifth Amendment and the Fourteenth Amendment of which PERKINS, AGUIRRE, CHAVEZ, LENOX, AND SCHROEDER knew or should have known.

(421) CHAVEZ, LENOX, AGUIRRE, SCHROEDER, and MARTINEZ knew or should have known the information in the PERKINS' DEA-6 ROI'S was false. CHAVEZ, LENOX, AGUIRRE, MARTINEZ, and SCHROEDER each had a duty to prevent false information from being placed before the grand jury but CHAVEZ, LENOX, AGUIRRE, MARTINEZ, and SCHROEDER acquiesced and failed to stop the DEA-6 ROI'S from being placed into evidence before the grand jury or once in evidence, they failed to take corrective action so the grand jury would know the ROI's were false.

(422) CHAVEZ, LENOX, AGUIRRE, MARTINEZ, and SCHROEDER knew or should have known the PERKINS' DEA-6 ROI's were bogus and contained PERKINS' lies and material misrepresentations of facts and statements imputed to Mark and Deborah Rasmusson and to RASMARK employees.

(423) **CHAVEZ, LENOX, AGUIRRE, MARTINEZ**, and **SCHROEDER** knew or should have known that PERKINS violated 18 U.S.C. § 1623 which was clearly established law in 1990 at the time PERKINS gave false testimony before the grand jury.

(424) CHAVEZ, LENOX, AGUIRRE MARTINEZ, and SCHROEDER knew or should have known that PERKINS violated the provisions of 18 U.S.C. § 1001 which was clearly established in 1990 when he deliberately placed false information in official DEA ROI's.

(425) PERKINS' fabrication of bogus facts, placing the bogus facts in DEA-6 ROI's, presenting, with the approval and/or acquiescence of LENOX AND AGUIRRE, the bogus ROI's into evidence at a federal grand jury was done in deliberate indifference or complete disregard for the truth in violation of Mark and Deborah Rasmusson's and RASMARK's due process and equal protection rights protected by the Fifth Amendment.

(426) As a direct and proximate cause of PERKINS perjured grand jury testimony and the entry of PERKINS' false and bogus ROI's into evidence before the grand jury, Mark Rasmusson was indicted and brought to trial on charges PERKINS knew were bogus and without factual basis in truth. PERKINS acted unreasonably and in reckless disregard for the truth in wrongfully seeking and securing a grand jury indictment of Mark B. Rasmusson and carrying out the arrest and trial of Mark B. Rasmusson causing great expense, mental anguish and emotional trauma.

(427) PERKINS, with the approval and/or acquiescence of LENOX AND AGUIRRE, conducted interviews of Mark and Deborah Rasmusson and several RASMARK employees falsely claiming to gather information on FLORES but FLORES was already under indictment. The ulterior purpose was to gather incriminating information of Mark and Deborah Rasmusson and on RASMARK. PERKINS knew that Mark and Deborah Rasmusson were targets in at least two federal investigations at the time PERKINS carried out interrogations of the Rasmussons. PERKINS intentionally kept secret that information when he was interviewing the Rasmussons, that it was the Rasmussons not FLORES who were the targets of PERKINS investigation. PERKINS did not inform the Rasmussons of their Miranda rights at any time during the course of several interrogations. When no incriminating information was obtained, PERKINS, with the

approval and/or acquiescence of LENOX AND AGUIRRE, created incriminating information and inserted the false information into his DEA-6 ROI's and stated therein that the information (albeit false) came from the person being interrogated. The sole purpose of creating the bogus DEA-6 ROI's was to present false information to the grand jury to get the RASMUSSONS indicted. That the purpose of the interrogations of the Rasmussons was for their indictment is clear from the fact that Jesse FLORES had been indicted several months earlier and he was in jail without bond. The bogus DEA-6 ROI's are dated as follows:

(a) August 23, 1990 Deborah Rasmusson; (prepared August 26, 1990)

(b) August 23, 1990 Mark and Deborah Rasmusson; (prepared on September 17, 1990)

(c) August 26, 1990 RASMARK pilot BURNETT; (prepared September 7, 1990)

(d) August 27, 1990 RASMARK employee Suzanne Zaldivar; Prepared on September 18, 1990)

(e) August 27, 1990 RASMARK employee David Chavez; (prepared on September 1, 1990)

(f) August 27, 1990 RASMARK pilot Jim Young and Deborah Rasmusson; (prepared on September 15, 1990)

(g) August 28, 1990 RASMARK accountant Apodaca; (prepared on September 13, 1990)

(h) August 29, 1990 Mark and Deborah Rasmusson; (prepared on September 5, 1990), and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1990 to the present.

(428) September 19, 1990 Mark Rasmusson was indicted.

(429) Mark Rasmusson was acquitted on the bogus charges by a directed verdict acquittal prior to the case being submitted to the jury. It was obvious that the prosecution had not a single shred of evidence that would impute any illegal activity to Plaintiff Mark B. Rasmusson.

COUNT III
THIRD CAUSE OF ACTION

FEDERAL AGENTS AND STATE OFFICERS CARRIED OUT ILLEGAL SEARCH AND SEIZURE RAIDS ON PLAINTIFFS' PROPERTY, AIRCRAFT, AUTOMOBILES, HOME, BUSINESS IN VIOLATION OF PLAINTIFFS' RIGHTS PROTECTED BY THE FOURTH AMENDMENT AND COVER UP OF THEIR CONSPIRATORIAL ACTS

(430) For their third cause of action against **LENOX, SCHROEDER, WILCZEWSKI, FROST, MILLS, REAY, LAPPE, KING, BROWN, PERKINS, CHAVEZ, AGUIRRE, HIVICK, MARTINEZ, ACOSTA, HALLETT, HENSLEY, WEISE, SALAS, HOLLAND, BAKER, KEITH,**

PLAINTIFFS STATE:

(431) At all times relevant to this lawsuit, **LENOX, SCHROEDER, WILCZEWSKI, FROST, MILLS, REAY, LAPPE, KING, BROWN, PERKINS, CHAVEZ, AGUIRRE, HIVICK, MARTINEZ, ACOSTA, HENSLEY, HALLETT, AND WEISE,** individually and in concert, were acting under color of their federal authority, federal laws, statutes, regulations, policies, customs or usages of the USCS, FBI, INS, IRS, and DEA. **LENOX, SCHROEDER, WILCZEWSKI, FROST, MILLS, REAY, LAPPE, KING, BROWN, PERKINS, CHAVEZ, AGUIRRE, HIVICK, MARTINEZ, ACOSTA, HENSLEY, HALLETT and WEISE** violated Plaintiffs' rights, privileges and immunities secured to Plaintiffs

by the First, Fourth and Fifth Amendments to the Constitution of the United States, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present. This cause of action is brought against them pursuant to the Bivens Doctrine.

(432) At all times relevant to this lawsuit, **SALAS, HOLLAND, BAKER, AND KEITH,** in their individual and official capacity as police officers and individually and in concert, were acting under color of the laws, statutes, ordinances, regulations, policies, customs or usages of the State of Texas, County of El Paso, and the City of El Paso and they violated Plaintiffs' rights, privileges and immunities secured to Plaintiffs by the First, Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1991 to the present. This cause of action is brought against them pursuant to 42 U.S.C. § 1983.

(433) By this reference, Plaintiffs incorporate each and every allegation and averment contained in Paragraphs 1-396 as though fully set forth in Plaintiffs' THIRD CAUSE OF ACTION.

DEFENDANTS VIOLATION OF PLAINTIFFS' RIGHTS PROTECTED BY THE FOURTH, FIFTH AND/OR FOURTEENTH AMENDMENTS AND COVER UP OF THEIR CONSPIRATORIAL ACTS

(434) As part of Defendants continuing pattern of harassment, intimidation, and retaliation against Plaintiffs and as part of an over all conspiracy to steal the assets of Mark and Deborah Rasmusson through the forfeiture process, Defendants carried out the following searches and seizures, prepared false affidavits to obtain warrants where no probable cause existed to legitimately obtain a warrant and where no probable cause existed, no exigent circumstances existed. Defendants carried out warrantees searches and seizures of Plaintiffs' person, property, automobiles, aircraft, business and home in violation of Plaintiffs' constitutional right to be free from unreasonable searches and

seizures protected by the Fourth and Fourteenth Amendments and Plaintiffs' due process and equal protection rights protected by the Fifth Amendment and Fourteenth Amendment, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

(435) During the period 1987 through the present time, it was clearly established that Plaintiffs had a Fourth Amendment right to be free from unreasonable searches and seizures by federal Defendants.

(436) During the period 1987 through the present time, it was clearly established that Plaintiffs had a Fourteenth Amendment right to be free from unreasonable searches and seizures by state Defendants.

(437) During the period 1987 through the present time, it was clearly established that Plaintiffs had a Fifth Amendment right to due process and equal protection of the law from federal officials.

(438) During the period 1987 through the present time, it was clearly established that Plaintiffs had a Fourteenth Amendment right to due process and equal protection of the law as to state officials.

(439) In the period 1987 through 1997, it was clearly established that Plaintiffs had a constitutionally protected liberty and property interest in pursuing common occupations.

(440) On or about October 6, 1988, Rasmark jet 44CP was seized in Brownsville by agents, individually and in concert, acting on behalf of Customs without probable cause or a search warrant in violation of Plaintiffs' Fourth Amendment clearly established right to be free from unreasonable searches and seizures.

(441) On or about May 23, 1992, defendants FROST, SCHROEDER, MILLS, WILCZEWSKI, REAY, HOLLAND, AND SALAS, individually and in concert, seized a box of records from Plaintiff Deborah L. Rasmusson without a warrant and without probable cause or exigent circumstances in violation of Plaintiffs' Fourth

Amendment clearly established right to be free from unreasonable searches and seizures.

(442) On or about November 10, 1992, FROST, SCHROEDER, MILLS, WILCZEWSKI, EPPD police officers, individually and in concert, searched in an unreasonable manner the person of Plaintiff Deborah Rasmusson, searched her vehicle without a warrant, without probable cause and without exigent circumstances. On or about November 10, 1992, FROST, individually and in concert with other agents, seized Plaintiff Deborah Rasmusson' vehicle without a warrant, without probable cause, without exigent circumstances in violation of Plaintiffs' Fourth Amendment clearly established right to be free from unreasonable searches and seizures, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present. All the acts and conduct of the Defendants made subject of the complainant was objectively unreasonable.

(443) On or about June 1, 1993, FROST, BROWN, ACOSTA, MILLS, SCHROEDER, AND HOLLAND, individually and in concert, seized and searched a RASMARK jet at El Paso International airport without probable cause, without a warrant in violation of Plaintiffs' Fourth Amendment clearly established right to be free from unreasonable searches and seizures and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1990 to the present. All the acts and conduct of Defendants made subject of complaint was objectively unreasonable.

(444) On or about June 17, 1993, FROST, BROWN, WILCZEWSKI, REAY, LAPPE, SCHROEDER, MILLS, individually and in concert, assisting Customs' agents Lue Jackson, Larry Harrell, Dante Orate, C.W. Moore, Cynthia Mandujan, Daniel Ramirez, seized and searched RASMARK jet 25TK without a warrant, without probable cause, and without exigent circumstances in violation of Plaintiffs' Fourth Amendment clearly established right to be free from unreasonable searches and seizures, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from

on or about 1990 to the present. All the acts and conduct of the Defendants made the subject of the complaint was objectively unreasonable.

(445) On or about September 1, 1993, FROST, WILCZEWSKI, REAY, LAPPE, HENSLEY, WEISE, SCHROEDER, MILLS, individually and in concert, assisting Customs' agents Lue Jackson, Larry Harrell, Dante Orate, C.W. Moore, Cynthia Mandujan, Daniel Ramirez, DEA agent Bill Inselmann and FAA agent Leo Cungman seized and searched RASMARK jet while parked at Signature Flight Support on Dallas Love Field without a warrant, without probable cause and without exigent circumstances in violation of Plaintiffs' Fourth Amendment clearly established right to be free from unreasonable searches and seizures, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1990 to the present. All the acts and conduct of the Defendants made subject of the complaint was objectively unreasonable.

(446) On November 22, 1993, FROST, WILCZEWSKI, REAY, LAPPE, SCHROEDER, MILLS, individually and in concert, assisting Customs' agents Lue Jackson, Larry Harrell, Dante Orate, C.W. Moore, Cynthia Mandujan, Daniel Ramirez, and other federal and state agents, searched the RASMARK Office with a warrant supported by an affidavit that contained completely false, misleading, information designed to deceive the magistrate into issuing a search warrant based on bogus facts in violation of Plaintiffs' Fourth Amendment clearly established right to be free from unreasonable searches and seizures and in violation of Plaintiffs right to due process and equal protection protected by the Fifth Amendment and the Fourteenth Amendment, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present. All the acts and conduct of the Defendants made subject of the complaint was objectively unreasonable.

(447) On November 22, 1993, FROST, WILCZEWSKI, REAY, LAPPE, SCHROEDER, MILLS, HOLLAND, KEITH, BAKER,

KING, HIVICK, individually and in concert with other members of FTF, assisting Customs' agents Lue Jackson, Larry Harrell, Dante Orate, C.W. Moore, Cynthia Mandujan, Daniel Ramirez, searched the Rasmusson home on Leo Collins with a warrant supported by an affidavit that contained completely false, misleading, information designed to deceive the magistrate into issuing a search warrant based on bogus facts in violation of Plaintiffs' Fourth Amendment clearly established right to be free from unreasonable searches and seizures and in violation of Plaintiffs right to due process and equal protection protected by the Fifth Amendment and the Fourteenth Amendment and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1990 to the present. All the acts and conduct of the Defendants made subject of the complaint was objective unreasonable.

(448) Between March, 1993 and September, 1993, Defendants FROST, WILCZEWSKI, MILLS, HOLLAND, KEITH, BAKER, ACOSTA and KING, individually and in concert with the FTF, or other agents assisting, seized and searched Plaintiff Deborah Rasmusson's trash cabana attached to her home on Leo Collins without a warrant and without probable cause in violation of Plaintiffs' Fourth Amendment clearly established right to be free from unreasonable searches and seizures and in violation of Plaintiffs right to due process and equal protection protected by the Fifth Amendment and the Fourteenth Amendment, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present. All the acts and conduct of the Defendants made subject of the complaint was objectively unreasonable.

COUNT IV
FOURTH CAUSE OF ACTION

TORTIOUS INTERFERENCE WITH RASMARK'S CURRENT AND PROSPECTIVE BUSINESS CONTRACTS AND/OR BUSINESS RELATIONSHIP WITH STATE NATIONAL BANK, TEXAS COMMERCE BANK AND FORD MOTOR COMPANY AND

COVER UP OF THEIR CONSPIRATORIAL ACTS

(449) For their FOURTH CAUSE OF ACTION against FROST, LAPPE, REAY, WILCZEWSKI, SCHROEDER, KING, BROWN, HIVICK, AND MARTINEZ, Defendants individually and in concert with other FTF members and non members, Plaintiffs state:

(450) By this reference, Plaintiffs hereby incorporate the overt acts specified in paragraphs 1 through 396 as the factual basis for Plaintiffs' fourth cause of action. Plaintiffs further incorporate their first, second, and third causes of action as though fully set forth herein.

(451) All of the incidents and overt acts complained of in Paragraphs 1 through 101 above were committed by Defendants individually and/or in concert acting under color of federal law and/or color of state law without probable cause. The Defendants violated Plaintiffs' rights protected by the United States Constitution and other federal law.

(452) The aforesaid actions of FROST, LAPPE, REAY, WILCZEWSKI, SCHROEDER, KING, BROWN, HIVICK, and MARTINEZ constitute tortious interference with RASMARK's prospective contracts, contract negations, business relationship with State National Bank, Texas Commerce Bank, and Ford Motor Company, invasion of Plaintiffs' privacy, abuse of process all in violation of the law of the State of Texas which this Court may adjudicate as pendant to the first, second, third and fourth causes of action. WEISE, HALLETT, AND HENSLEY failed to supervise, failed to train, failed to discipline, failed to promulgate constitutional policies and procedures and they acquiesced, approved the harassment strategy that consisted of repeated slander against the Plaintiffs resulting in termination of contractual and employment relationships, and rewarded and promoted the agents for their bad acts carried out against Plaintiffs where said acts were contrary to clearly established law.

(453) As a proximate result of the foregoing objectively unreasonable actions and conduct, Plaintiffs suffered loss of property,

huge financial losses, and Plaintiffs suffered and continues to suffer great humiliation, embarrassment and physical and mental suffering and duress, as well as loss of reputation in and among their business associates friends, family. The Defendants are jointly and severally liable for the foregoing damages to the Plaintiffs, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

COUNT V
FIFTH CAUSE OF ACTION

AGAINST CITY OF EL PASO, EL PASO POLICE DEPARTMENT AND CHIEF LEACH FOR FAILURE TO SUPERVISE AND COVER UP OF THEIR CONSPIRATORIAL ACTS

(454) Plaintiffs' fifth cause of action is brought against the City of El Paso, LEACH, SALAS AND HOLLAND, individually and in concert, pursuant to 42 U.S.C. § 1983 for violation of Plaintiffs' constitutional rights by State of Texas law enforcement officers acting under color of state law.

(455) By this reference, Plaintiffs hereby incorporate Paragraphs **1 through 396** inclusively as though fully set forth in this fifth cause of action. Plaintiffs further incorporate by reference Plaintiff's first, second, third, and fourth causes of action as if fully set forth herein.

(456) All of the incidents and allegations complained of in **Paragraphs 1 through 396** above were committed by Defendants individually and in concert, acting under color of state law without probable cause. The Defendants violated Plaintiffs' rights protected by the First, Fourth, Fifth, and Fourteenth Amendments to freely associate, to be free from unreasonable searches and seizures, right to due process, equal protection, and right to privacy.

(457) SALAS and HOLLAND acting as agents and on behalf

of the City of El Paso ("CITY") within the scope of their employment.

(458) SALAS AND HOLLAND, individually and in concert with other members and non members of the FTF, wrongfully carried out searches, seizures against Plaintiffs and because the CITY has tolerated and permitted a pattern of illegal actions against Plaintiffs and it has failed to maintain a proper system for reviewing , correcting police officer misconduct, such pattern of illegal actions became customs and usage or policy of the CITY. This resulted in the CITY encouraging and inducing SALAS and HOLLAND to believe that they can violate the constitutional rights of citizens such as plaintiffs with impunity.

(459) The failure of the Mayor of the CITY and the Chief LEACH to adequately train, supervise, discipline or in any other way control the behavior of SALAS AND HOLLAND in the exercise of their police functions and to enforce the laws of the State of Texas and the United States and the regulations of the El Paso Police Department and CITY ordinances is evidence of reckless disregard for the rights of citizens including plaintiffs and exhibited a lack of that degree of due care which prudent and reasonable individuals would show in executing the duties of Chief of Police and Mayor.

(460) The failure of the Mayor of the CITY and Chief LEACH to train, supervise, discipline or in any other way control SALAS AND HOLLAND in the exercise of their police functions, and their failure to enforce the laws of the State of Texas and the United States, and the regulations of the El Paso Police Department and City ordinances was and is carried out wilfully, wantonly, maliciously and with such reckless disregard for consequences as to display a conscious disregard for the dangers of harm and injury to citizens of the CITY including Plaintiffs.

(462) The injuries sustained by Plaintiffs resulted from the gross negligence of the CITY in employing and continuing to employ without adequate training and supervision, police officers of a violent character, unsuitable temperament, and insensitive disposition to the constitutional rights of persons, including the Plaintiffs.

(463) As a proximate result of the foregoing objectively unreasonable actions and conduct, Plaintiffs suffered loss of property, huge financial losses, and Plaintiffs suffered and continues to suffer great humiliation, embarrassment and physical and mental suffering and duress, as well as loss of reputation in and among their business associates friends, family. The Defendants are jointly and severally liable for the foregoing damages to the Plaintiffs, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

COUNT VI
SIXTH CAUSE OF ACTION

AGAINST COUNTY OF EL PASO, EL PASO COUNTY SHERIFF'S DEPARTMENT AND SHERIFF SAMANIEGO FAILURE TO SUPERVISE AND COVER UP OF THEIR CONSPIRATORIAL ACTS

(464) Plaintiffs' sixth cause of action is brought against the County of El Paso ("COUNTY"), Sheriff Samaniego, Detective Neil Baker and Detective Jerry Keith, individually and in concert, and in their official capacity, pursuant to 42 U.S.C. § 1983 for violation of Plaintiffs' constitutional rights by State of Texas law enforcement officers acting under color of state law.

(465) By this reference, Plaintiffs hereby incorporate **Paragraphs 1 through 396** inclusively as though fully set forth in this sixth cause of action.

(466) All of the incidents and allegations complained of in **Paragraphs 1 through 396** above were committed by Defendants individually and in concert with other members and non members of the FTF, acting under color of state law without probable cause. The Defendants violated Plaintiffs' First, Fourth, and Fourteenth Amendment rights to free association, to be free from unreasonable searches and seizures, right to due process and equal protection, and right to privacy.

(467) BAKER and KEITH were acting as agents and on behalf of the COUNTY within the scope of their employment.

(468) BAKER and KEITH illegally carried out searches, seizures, pattern of intimidation, HARASSMENT, retaliation against Plaintiffs because the COUNTY has tolerated and permitted a pattern of illegal and unconstitutional actions against Plaintiffs and it has failed to maintain a proper system for reviewing police officer misconduct and such pattern has become customs, usages or policy of the COUNTY. This resulted in the COUNTY encouraging BAKER AND KEITH to believe that they can violate the rights of citizens such as plaintiffs with impunity.

(469) The failure of the COUNTY Commissioners and Sheriff SAMANIEGO to adequately train, supervise, discipline or in any other way control the behavior of the BAKER and KEITH in the exercise of their police functions and to enforce the laws of the State of Texas and the regulations of the COUNTY is evidence of reckless lack of regard for the rights of citizens including plaintiffs and exhibited a lack of that degree of due care which prudent and reasonable individuals would show in the executing of the duties by El Paso County Sheriff.

(470) The failure of the COUNTY Commissioners and Sheriff SAMANIEGO to train, supervise, discipline or in any other way control BAKER and KEITH in the exercise of their police functions, and their failure to enforce the laws of the State of Texas, United States, and the regulations of the El Paso County Sheriff's Department and city and county ordinances was and is carried out wilfully, wantonly, maliciously and with such reckless disregard for consequences as to display a conscious disregard for the dangers of harm and injury to citizens of the COUNTY including Plaintiffs.

(471) The injuries sustained by Plaintiffs resulted from the gross negligence of the COUNTY in employing and continuing to employ without adequate training and supervision, police officers of a violent character, unsuitable temperament, and insensitive disposition to the constitutional rights of persons, including the Plaintiffs.

(472) As a proximate result of the foregoing objectively unreasonable actions and conduct, Plaintiffs suffered loss of property, huge financial losses, and Plaintiffs suffered and continues to suffer great humiliation, embarrassment and physical and mental suffering and duress, as well as loss of reputation in and among their business associates friends, family. The Defendants are jointly and severally liable for the foregoing damages to the Plaintiffs, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

COUNT VII
SEVENTH CAUSE OF ACTION

USCS'S VIOLATIONS OF PRIVACY ACT, 5 U.S.C. §552a AND COVER UP OF THEIR CONSPIRATORIAL ACTS

(473) For their seventh cause of action, Plaintiffs allege United States Customs Service violated the Plaintiffs' due process, equal protection, and Privacy Act rights as follows:

(474) By this reference, Plaintiffs hereby incorporate the overt acts specified in the foregoing paragraphs 1-396 as the factual basis for Plaintiffs' seventh cause of action as though fully set forth herein.

(475) (1) In violation of **§ 552a(b),** USCS disclosed information from records that were contained in USCS's system of records by means of a communication, or communications, to PHIL ASIALA and FORD MOTOR COMPANY, and family members, friends, business associates, competitors customers, bankers, creditors, and other persons unknown, without a written request by any of the Plaintiffs or without the prior written consent of any of the Plaintiffs resulting in the loss of established, long-term contractual relationships between Ford Motor Company and the Plaintiffs; **see Letter from Department of The Treasury, U.S. Customs Service, dated July 26, 1993, signed by Defendant Michael T. Lappe, (Exhibit 28).**

(476) In violation of **§552a(e)(1),** USCS failed to maintain a

system of records in which it maintains in its records only such information about the Plaintiffs as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President.

(477) In violation of **§ 552a(e)(3),** USCS failed to inform PHIL ASIALA and FORD MOTOR COMPANY, and family members, friends, business associates, competitors, customers, bankers, creditors, and other persons unknown, upon whom USCS asked to supply information about the Plaintiffs, on the form which it used to collect the information of the following:

a. pursuant to subsection (A), the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

b. pursuant to subsection (B), the principal purpose or purposes for which the information is intended to be used;

c. pursuant to subsection (C), the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of § 552a(e); and,

d. pursuant to subsection (D), the effects on PHIL ASIALA and on FORD MOTOR COMPANY, and family members, friends, business associates, competitors, customers, bankers, creditors, and other persons unknown, if any, of not providing all or any part of the requested information.

(478) In violation of **§ 552a(e)(5),** USCS failed to maintain all records which were used by USCS in making its determination to disclose information about the Plaintiffs with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the Plaintiffs in its determination;

(479) In violation of **§ 552a(e)(6),** USCS failed prior to

disseminating information from its records about the Plaintiffs to PHIL ASIALA and FORD MOTOR COMPANY, and family members, friends, business associates, competitors, customers, bankers, creditors, and other persons unknown, make reasonable efforts to assure that such records were accurate, complete, timely, and relevant for agency purposes.

(480) In violation of **§ 552a(e)(7),** USCS maintained information in its records describing how the Plaintiffs exercised rights to freely associate with persons of their choice as guaranteed by the First Amendment without first obtaining express authority from the Plaintiffs and such information was not pertinent to nor within the scope of an authorized USCS law enforcement activity.

(481) In violation of **§ 552a(e)(9),** USCS failed to establish rules of conduct for MICHAEL T. LAPPE, LARRY FROST, and other persons involved in the design, development, operation, or maintenance of the system of records containing the information about the Plaintiffs, or in maintaining the records, and failed to instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance.

(482) In violation of **§ 552a(e)(10),** USCS failed to establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of information from records pertaining to the Plaintiffs and to protect against any anticipated threats or hazards to their security or integrity which resulted in substantial harm, embarrassment, inconvenience, and unfairness to the Plaintiffs on whom the information was maintained, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

COUNT VIII
EIGHTH CAUSE OF ACTION

CONSPIRACY TO VIOLATE PLAINTIFFS CONSTITUTIONAL RIGHTS AND COVER UP OF THEIR CONSPIRATORIAL ACTS

(483) For their eighth cause of action against **LENOX, SCHROEDER, WILCZEWSKI, FROST, MILLS, REAY, LAPPE, HENSLEY, HALLETT, WEISE, KING, BROWN, PERKINS, CHAVEZ, AGUIRRE, HIVICK, MARTINEZ, ACOSTA, SALAS, HOLLAND, BAKER, KEITH, individually and in concert each other and other members and non members of USCS and the FTF.**

PLAINTIFFS STATE:

(484) At all times relevant to this lawsuit, **LENOX, SCHROEDER, WILCZEWSKI, FROST, MILLS, REAY, LAPPE, HENSLEY, HALLETT, WEISE, KING, BROWN, PERKINS, CHAVEZ, AGUIRRE, HIVICK, MARTINEZ, AND ACOSTA,** were acting under color of their federal authority, federal laws, statutes, regulations, policies, customs or usages of the USCS, FBI, IRS, AND DEA and they violated Plaintiffs' rights, privileges and immunities secured to Plaintiffs by the First, Fourth and Fifth Amendments to the Constitution of the United States. This cause of action is brought against them pursuant to the Bivens Doctrine.

(485) At all times relevant to this lawsuit, SALAS, HOLLAND, BAKER, AND KEITH were acting under color of the laws, statutes, ordinances, regulations, policies, customs or usages of the State of Texas, County of El Paso, and the City of El Paso and they violated Plaintiffs' rights, privileges and immunities secured to Plaintiffs by the First, Fourth, Fifth or Fourteenth Amendments to the Constitution of the United States. This cause of action is brought against them pursuant to 42 U.S.C. § 1983.

(486) By this reference, Plaintiffs incorporate each and every

allegation and averment contained in Paragraphs 1-396 as though fully set forth in Plaintiffs' first, second, third, fourth, fifth sixth and seventh causes of action.

(487) Defendants LENOX, WILCZEWSKI and SCHROEDER, joined the conspiracy during the period 1987 and 1990. Defendants PERKINS, CHAVEZ, MARTINEZ and AGUIRRE joined the conspiracy during the period 1989 to 1991. Defendants REAY, LAPPE, HENSLEY and HALLETT joined the conspiracy during the period 1990 to 1992. Defendants BROWN, HIVICK, FROST, MILLS, ACOSTA, SALAS, BAKER, HOLLAND, and KEITH joined the conspiracy between 1991 and 1993, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

DESIGN AND PLAN OF THE CONSPIRACY AND COVER UP OF THEIR CONSPIRATORIAL ACTS

(487) The FTF was funded in the amount of approximately one million dollars for investigation of PORTILLO. RASMARK was made a part of the PORTILLO investigation merely because RASMARK had made a business arraignment with PORTILLO regarding the use of a lear jet for charter services. Customs had been carrying out investigations of RASMARK for several years and came up with no evidence of criminal wrong doing by any one associated with RASMARK. The FTF hatched a new plan to put RASMARK away for good.

(488) The new plan focused on the tactics and strategy designed by LAPPE, REAY, WILCZEWSKI, SCHROEDER, AND FROST, individually and in concert, which was implemented in steps:

PLAN A:

(a) Develop information and evidence of Mark Rasmusson conducting money laundering.

(b) Develop information and evidence of Mark Rasmusson direct involvement in transportation of currency and/or drugs.

(c) Develop direct evidence of Mark Rasmusson involvement with Portillo in currency transfers anywhere in the world.

(d) If a, b, and c failed to produce any evidence then the investigation would resort to plan B.

PLAN B:

(a) The FTF would intimidate and coerce Mark Rasmusson's friends, business associates, customers, employees and implant in their minds the allegation that Mark Rasmusson is a drug dealer, money launderer, and in general a criminal. The FTF initial circle of distribution and communication of disinformation failed to produce the desired result of cutting off Mark Rasmusson's source of business resources.

(b) Having only been partially successful, the FTF resorted to the next phase by overtly providing false, misleading and outright lies to RASMARK's single most important client - The Ford Motor Company. The false, phoney and misinformation provided to The Ford Motor Company Headquarters caused the Ford executive managers to fire Plaintiff Gantkessy and terminate its use of RASMARK as its primary air carrier despite the fact that RASMARK was the cheapest, most reliable and on time air carrier in El Paso.

(c) RASMARK's loss of the Ford Motor Company business resulted in 80% to 90% drop in business income. The FTF went further in providing disinformation to Chrysler Corporation, General Motors and to other air carrier brokers through RASMARK competitors Gail Beech, Chris Hines and others.

(d) Still not having the desired impact of completely cutting off income to RASMARK, the FTF carried out raids on RASMARK aircraft to delay fights of time critical cargo as specified in count III. Finally FTF organized and carried out simultaneous raids on the

RASMARK Office and the Rasmusson's home on Leo Collins. FTF seized and removed all RASMARK business records that were essential to operating RASMARK.

(e) The FTF continued its campaign of harassment, intimidation, and retaliation as specified in Count I par. xxxxx above. The combined efforts finally caused RASMARK to be out of business for a period of time.

(f) Over the ten (10) year period that federal agents have been harassing, intimidating and retaliating against RASMARK and combined with the efforts of the FTF, no evidence of criminal activity was found.

PLAN C:

Plan C called for the FTF to obtain a Undercover ("UC") person that Mark Rasmusson would trust and in whom he had confidence who could and would approach Mark Rasmusson to make an offer that he/she could solve all of the RASMARK financial problems if RASMARK or Mark Rasmusson would engage in transportation of drugs (drugs furnished by FTF) or INITIATE A MONEY LAUNDERING OPERATION DESIGNED by the FTF (money furnished by the FTF). Once an agreement were made BETWEEN Mark Rasmusson and the Undercover operative, and drugs or money were accepted by Mark Rasmusson, he would be immediately arrested and the FTF would seize all of the RASMARK assets and all the FTF partners would split the spoils. The seizure of the RASMARK assets would close the case and WILCZEWSKI, FROST, SCHROEDER AND LAPPE would claim that the asset seizure would pay for the failed million dollar PORTILLO investigation.

(489) By this reference, Plaintiffs incorporate each and every allegation and averment contained in Paragraphs 1-396 as though fully set forth in Plaintiffs' eighth cause of action, and the Defendants, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

COUNT IX
NINTH CAUSE OF ACTION

DEFENDANTS ENGAGED IN A COURSE OF ACTION DESIGNED TO COVER UP THEIR VIOLATIONS OF LAW AND THEIR VIOLATIONS OF PLAINTIFFS' CONSTITUTIONAL RIGHTS

(490) Plaintiffs allege Counts One through Eight as though fully set forth herein, and paragraphs 1-396, all Defendants, federal, state and private persons, individually and in concert, engaged in a cover up of their conspiratorial acts from on or about 1987 to the present.

DAMAGES

(491) All of the Defendants' acts and omissions set out above were the proximate cause of substantial damages to Plaintiffs including severe physical pain and suffering, severe mental pain and suffering, lost income, severe emotional distress, humiliation and embarrassment, and mental anguish and deprivation of constitutional rights.

(492) All of the acts and omissions of Defendants were wanton, malicious, and done in conscious disregard of and with deliberate indifference to the rights and needs of Plaintiffs rendering appropriately the award of punitive damages.

(493) All of the acts and omissions of all Defendants complained of herein were done in conscious disregard of and with deliberate indifference to Plaintiffs' constitutional rights.

WHEREFORE, Plaintiff requests the Court:

a. Enter judgment in behalf of Plaintiffs against the Defendants USCS for actual damages in an amount to be proved at trial pursuant to the Privacy Act, Section 552a(g)(4);

b. Enter judgment in behalf of Plaintiffs against all Defendants, jointly and severally, including but not limited to, in the amount of one hundred twenty million dollars ($120,000,000) compensatory damages;

c. Enter judgment on behalf of Plaintiffs for punitive damages against FROST, WEISE, HALLETT, REAY, LAPPE, WILCZEWSKI, SALAS, HOLLAND, BAKER, KEITH SCHROEDER, MILLS, PERKINS, CHAVEZ, AGUIRRE, LENOX, and ACOSTA, including but not limited to, in the amount of fifty million dollars ($50,000,000) each;

d. Enter judgment on behalf of Plaintiffs for punitive damages against Defendants KING, BROWN, , HIVICK, in the amount of ten million ($10,000,000) each;

e. Enter judgment on behalf of Plaintiffs for punitive damages against LENOX, BAKER, KEITH,HINES, BEACH and Aero Freight, Inc., including but not limited to, in the amount of five million dollars ($5,000,000) each;

f. This relief should be enough to deter Defendants and others from similar violations in the future;

g. Grant Plaintiffs a reasonable attorney's fee as authorized by 42 U.S.C. § 1988 against Defendants, jointly and severally;

h. Grant a trial by jury; and

i. Grant any and all additional relief to which Plaintiffs may appear to be entitled including their costs herein expended, pre-

judgment and post-judgment interest.

SHEPPARD & ASSOCIATES

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